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**BILL 98**

**Government Bill**

Government  
Publications

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

106

**Ontario. Legislative Assembly**

## **The Securities Act, 1975**

THE HON. S. B. HANDLEMAN  
Minister of Consumer and Commercial Relations



TORONTO

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#### EXPLANATORY NOTE

The Bill is a revision of *The Securities Act*.

The purpose of the revision is,

- (a) to provide comprehensive regulation of the mutual fund industry by implementing the recommendations of The Report of the Canadian Committee on Mutual Funds and Investment Contracts (1969);
- (b) to establish a more coherent continuous disclosure system for the purpose of,
  - (i) providing equal access to material information of the affairs of an issuer, and, consequently,
  - (ii) permitting a more exhaustive definition of the circumstances in which securities may be traded without restriction,

in accordance with the principles underlying the recommendations of The Report of the Committee of the Ontario Securities Commission on the Problems of Disclosure Raised for Investors by Business Combinations and Private Placements;

- (c) to amend the existing take-over bid provisions in accordance with the recommendations of Chapters 13 and 16 of The Report on Mergers, Amalgamations and Certain Related Matters by the Select Committee on Company Law (November, 1973);
- (d) to expand the insider trading liability provision to include trading of securities of an issuer with knowledge of a material fact or change in respect of the issuer that has not been generally disclosed, to make the informing of another person or company of that material fact or change an offence and to implement the recommendation of Chapter 22 of The Report on Mergers, Amalgamations and Certain Related Matters by the Select Committee on Company Law;
- (e) to remove matters generally regarded as corporate law from securities legislation;
- (f) to amend some existing provisions of the securities legislation in an effort to effectively achieve their purpose; and
- (g) to reorganize the securities legislation into a more logical format that includes only fundamental principles and to provide the details of fundamental principles in the regulations under the securities legislation.



BILL 98

1975

## The Securities Act, 1975

**H**ER MAJESTY, by and with advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### INTERPRETATION

#### 1.—(1) In this Act,

Interpre-  
tation

1. “adviser” means a person or company engaging in or holding himself or itself out as engaging in the business of advising others as to the investing in or the buying or selling of securities;
2. “associate”, where used to indicate a relationship with any person or company means,
  - i. any company of which such person or company beneficially owns, directly or indirectly, voting securities carrying more than 10 per cent of the voting rights attached to all voting securities of the company for the time being outstanding,
  - ii. any partners of that person or company,
  - iii. any trust or estate in which such person or company has a substantial beneficial interest or as to which such person or company serves as trustee or in a similar capacity,
  - iv. any relative of such person, including his spouse, or of his spouse, who has the same home as such person;
3. “Commission” means the Ontario Securities Commission;
4. “company” means any corporation, incorporated association, incorporated syndicate or other incorporated organization;

5. "contract" includes a trust agreement, declaration of trust or other similar instrument;
6. "contractual plan" means any contract or other arrangement for the purchase of shares or units of a mutual fund by payments over a specified period or by a specified number of payments where the amount deducted from any one of the payments as sales charges is larger than the amount that would have been deducted from such payment for sales charges if deductions had been made from each payment at a constant rate for the duration of the plan;
7. "contractual plan service company" means a person or company that sponsors or administers a contractual plan other than a trust company registered under *The Loan and Trust Corporations Act*;
8. "dealer" means a person or company that trades in securities in the capacity of principal or agent;
9. "decision" means a direction, decision, order, ruling or other requirement made under a power or right conferred by this Act or the regulations;
10. "Director" means the Director or any Deputy Director of the Commission;
11. "director", where used in relation to a person, includes a person acting in a capacity similar to that of a director of a company;
12. "distribution", where used in relation to trading in securities, means,
  - i. a trade in securities of an issuer which have not been previously issued,
  - ii. a trade by or on behalf of an issuer in previously issued securities of that issuer which have been redeemed or purchased by or donated to that issuer, or
  - iii. a trade in previously issued securities of an issuer from the holdings of any person, company or combination of persons or companies holding a sufficient number of any securities of that issuer to affect materially the control of that issuer, but any holding of any

R.S.O. 1970,  
c. 254

person, company or combination of persons and companies holding more than 20 per cent of the outstanding voting securities of an issuer shall, in the absence of evidence to the contrary, be deemed to affect materially the control of that issuer,

- iv. a trade in securities previously issued through an exemption in subsection 1 of section 73 that is not made in compliance with subsection 4, 5, 6 or 7 of section 73,

and “distribute”, “distributed” and “distributing” have a corresponding meaning;

- 13. “distribution company” means a person or company distributing securities under a distribution contract;
- 14. “distribution contract” means a contract between a mutual fund or its trustees or other legal representative and a person or company under which that person or company is granted the right to purchase the shares or units of the mutual fund for distribution or to distribute the shares or units of the mutual fund on behalf of the mutual fund;
- 15. “file” means deliver to the Commission;
- 16. “form of proxy” means a written or printed form that, upon completion and execution by or on behalf of a security holder, becomes a proxy;
- 17. “individual” means a natural person, but does not include a partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, or a natural person in his capacity as trustee, executor, administrator or other legal personal representative;
- 18. “insider” or “insider of a reporting issuer” means,
  - i. every director or senior officer of a reporting issuer,
  - ii. every director or senior officer of a company that is itself an insider or subsidiary of a reporting issuer,
  - iii. any person or company that beneficially owns, directly or indirectly, voting securities of a reporting issuer or that exercises control or



direction over voting securities of a reporting issuer or a combination of both carrying more than 10 per cent of the voting rights attached to all voting securities of the reporting issuer for the time being outstanding other than voting securities held by such person or company as underwriter in the course of a distribution, and

iv. every associate of the foregoing;

19. "issuer" means a person or company that has outstanding, issues or proposes to issue, a security;
20. "management company" means a person or company that provides investment advice, under a management contract;
21. "management contract" means a contract under which a mutual fund is provided with investment advice, alone or together with administrative or management services, for valuable consideration;
22. "material", where used in relation to a fact or change, means a fact or change that would reasonably be expected to have a significant effect on the market price of a security of an issuer;
23. "Minister" means the Minister of Consumer and Commercial Relations or other member of the Executive Council to whom the administration of this Act may be assigned;
24. "misrepresentation" means,
  - i. an untrue statement of material fact, or
  - ii. an omission to state a material fact;
25. "mutual fund" includes an issuer of securities that entitle the holder to receive on demand, or within a specified period after demand, an amount computed by reference to the value of a proportionate interest in the whole or in a part of the net assets, including a separate fund or trust account, of the issuer of such securities;
26. "officer" means the chairman, any vice-chairman of the board of directors, the president, any vice-president, the secretary, the assistant secretary, the

treasurer, the assistant treasurer, and the general manager of a company, and any other person designated an officer of a company by by-law or similar authority, or any individual acting in a similar capacity on behalf of an issuer or registrant;

27. "person" means an individual, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator, or other legal representative;
28. "portfolio securities", where used in relation to a mutual fund, means securities traded within the last thirty days, held, or proposed to be purchased by the mutual fund;
29. "private company" means a company in whose constating document,
  - i. the right to transfer its shares is restricted,
  - ii. the number of its shareholders, exclusive of persons who are in its employment and exclusive of persons who, having been formerly in the employment of the company, were, while in that employment, and have continued after termination of that employment to be, shareholders of the company, is limited to not more than fifty, two or more persons who are the joint registered owners of one or more shares being counted as one shareholder, and
  - iii. any invitation to the public to subscribe for its securities is prohibited;
30. "promoter" means,
  - i. a person or company that, acting alone or in conjunction with one or more other persons, companies or a combination thereof, directly or indirectly, takes the initiative in founding, organizing or substantially reorganizing the business of an issuer, or
  - ii. a person or company that, in connection with the founding, organizing or substantial reorganizing of the business of an issuer, directly or indirectly, receives in consideration of services or property, or both services and

property, 10 per cent or more of any class of securities of the issuer or 10 per cent or more of the proceeds from the sale of any class of securities of a particular issue, but a person or company who receives such securities or proceeds either solely as underwriting commissions or solely in consideration of property shall not be deemed a promoter within the meaning of this definition if such person or company does not otherwise take part in founding, organizing, or substantially re-organizing the business;

31. "proxy" means a completed and executed form of proxy by means of which a security holder has appointed a person or company as his nominee to attend and act for him and on his behalf at a meeting of security holders;
32. "register" means register under this Act, and "registered" has a corresponding meaning;
33. "registrant" means a person or company registered or required to be registered under this Act;
34. "regulations" means the regulations made under this Act;
35. "reporting issuer" means an issuer,
  - i. that has issued voting securities on or after the 1st day of May, 1967 in respect of which a prospectus was filed and a receipt therefor obtained under a predecessor of this Act or in respect of which a securities exchange take-over bid circular was filed under a predecessor of this Act,
  - ii. that has filed a prospectus and obtained a receipt therefor under this Act or that has filed a securities exchange take-over bid circular under this Act,
  - iii. any of whose securities have been at any time since the coming into force of this Act listed and posted for trading on any stock exchange in Ontario recognized by the Commission, regardless of when such listing and posting for trading commenced, or



- iv. to which *The Business Corporations Act* applies <sup>R.S.O. 1970,  
c. 53</sup> and which, for the purposes of that Act, is offering its securities to the public;

36. "salesman" means an individual who is employed by a dealer for the purpose of making trades in securities on behalf of such dealer;

37. "security" includes,

- i. any document, instrument or writing commonly known as a security,
- ii. any document constituting evidence of title to or interest in the capital, assets, property, profits, earnings or royalties of any person or company,
- iii. any document constituting evidence of an interest in an association of legatees or heirs,
- iv. any document constituting evidence of an option, subscription or other interest in or to a security,
- v. any bond, debenture, note or other evidence of indebtedness, share, stock, unit, unit certificate, participation certificate, certificate of share or interest, pre-organization certificate, subscription or any agreement under which the interest of the purchaser is valued for purposes of conversion or surrender by reference to the value of a proportionate interest in a specified portfolio of assets,
- vi. any agreement providing that money received will be repaid or treated as a subscription to shares, stock, units or interests at the option of the recipient or of any person or company,
- vii. any certificate of share or interest in a trust, estate or association,
- viii. any profit-sharing agreement or certificate,
- ix. any certificate or interest in an oil, natural gas or mining lease, claim or royalty voting trust certificate,
- x. any oil or natural gas royalties or leases or fractional or other interest therein,

R.S.O. 1970,  
c. 226

- xi. any collateral trust certificate,
- xii. any income or annuity contract not issued by an insurance company or an issuer within the meaning of *The Investment Contracts Act*,
- xiii. any investment contract, other than an investment contract within the meaning of *The Investment Contracts Act*, and
- xiv. any document constituting evidence of an interest in a scholarship or educational plan or trust,

whether any of the foregoing relate to an issuer or proposed issuer;

38. "senior officer" means,

- i. the chairman or a vice-chairman of the board of directors, the president, a vice-president, the secretary, the treasurer or the general manager of a company or any other individual who performs functions for an issuer similar to those normally performed by an individual occupying any such office, and
- ii. each of the five highest paid employees of an issuer, including any individual referred to in subparagraph i;

39. "trade" or "trading" includes,

- i. any sale or disposition of a security for valuable consideration, whether the terms of payment be on margin, instalment or otherwise, but does not include a purchase of a security,
- ii. any participation as a floor trader in any transaction in a security upon the floor of any stock exchange,
- iii. any receipt by a registrant of an order to buy or sell a security,
- iv. any transfer, pledge or encumbrancing of securities of an issuer from the holdings of any person or company or combination of

persons or companies described in subparagraph iii of paragraph 12 for the purpose of giving collateral for a *bona fide* debt, and

- v. any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of any of the foregoing;

40. "underwriter" means a person or company who, as principal, agrees to purchase securities with a view to distribution or who, as agent, offers for sale or sells securities in connection with a distribution and includes a person or company who has a direct or indirect participation in any such distribution, but does not include,

- i. a person or company whose interest in the transaction is limited to receiving the usual and customary distributor's or seller's commission payable by an underwriter or issuer,
- ii. a mutual fund that, under the laws of the jurisdiction to which it is subject, accepts its shares or units for surrender and resells them,
- iii. a company that, under the laws of the jurisdiction to which it is subject, purchases its shares and resells them, or
- iv. a bank to which the *Bank Act* (Canada) applies with respect to the securities described in paragraph 1 of subsection 2 of section 35;

R.S.C. 1970,  
c. B-1

41. "voting security" means any security other than a debt security of an issuer carrying a voting right either under all circumstances or under some circumstances which have occurred and are continuing.

(2) A company shall be deemed to be an affiliate of another company if one of them is the subsidiary of the other or if both are subsidiaries of the same company or if each of them is controlled by the same person or company.

Affiliated  
companies

(3) A company shall be deemed to be controlled by another person or company or by two or more companies if,

Controlled  
companies

- (a) voting securities of the first-mentioned company carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by



way of security only, by or for the benefit of such other person or company or by or for the benefit of such other companies; and

(b) the votes carried by such securities are entitled, if exercised, to elect a majority of the board of directors of the first-mentioned company.

Subsidiary  
companies

(4) A company shall be deemed to be a subsidiary of another company if,

(a) it is controlled by,

(i) that other, or

(ii) that other and one or more companies each of which is controlled by that other, or

(iii) two or more companies each of which is controlled by that other; or

(b) it is a subsidiary of a company that is that other's subsidiary.

Beneficial  
ownership  
of securities

(5) A person shall be deemed to own beneficially securities beneficially owned by a company controlled by him or by an affiliate of such company.

Idem

(6) A company shall be deemed to own beneficially securities beneficially owned by its affiliates.

Insider  
of mutual  
fund

(7) Every management company and every distribution company of a mutual fund that is a reporting issuer and every insider of such management company and distribution company shall be deemed to be an insider of the mutual fund.

Issuer as  
insider of  
reporting  
issuer

(8) Where an issuer becomes an insider of a reporting issuer, every director or senior officer of the issuer shall be deemed to have been an insider of the reporting issuer for the previous six months or for such shorter period that he was a director or senior officer of the issuer.

Reporting  
issuer as  
insider of  
other  
reporting  
issuer

(9) Where a reporting issuer becomes an insider of any other reporting issuer, every director or senior officer of the second-mentioned reporting issuer shall be deemed to have been an insider of the first-mentioned reporting issuer for the previous six months or for such shorter period that he was a director or senior officer of the second-mentioned reporting issuer. R.S.O. 1970, c. 426, s. 1, *amended*.

## PART I

## THE COMMISSION

**2.**—(1) The Commission is continued and is responsible <sup>Commission</sup> for the administration of this Act.

(2) The Commission shall be composed of a Chairman and <sup>Appointment</sup> not more than seven other members, appointed by the Lieutenant Governor in Council, one of whom shall be designated as Vice-Chairman.

(3) Two members of the Commission constitute a quorum. <sup>Quorum</sup> R.S.O. 1970, c. 426, s. 2, *amended*.

**3.**—(1) The Chairman shall be the chief executive officer <sup>Chairman and members</sup> of the Commission and shall devote his full time to the work of the Commission, and the other members shall devote such time as may be necessary for the due performance of their duties as members of the Commission.

(2) The Chairman, Vice-Chairman or any member of the <sup>Delegation of powers</sup> Commission may exercise the powers and shall perform such duties vested in or imposed upon the Commission by this Act or the regulations as are assigned to him by the Commission.

(3) Where the person who exercises the powers and per- <sup>Eligibility to sit on hearing</sup> forms the duties vested in the Commission by sections 11 through 17 pursuant to an assignment under subsection 2, receives the report of an investigation ordered under section 11 and on the basis of such report issues an *ex parte* order or a direction that proceedings be instituted by the Commission under sections 26, 71, 122 or 123 such person shall not sit on the hearing required to be held by the Commission except with the written consent of the party directly affected by the proceedings.

(4) Every decision made pursuant to an assignment under <sup>Review</sup> subsection 2 is subject to review by the Commission under section 8 in the same manner as if it had been made by the Director, and the person who made this decision shall not sit on the hearing and review thereof by the Commission. R.S.O. 1970, c. 426, s. 3, *amended*.

## PART II

## FINANCIAL DISCLOSURE ADVISORY BOARD

Financial  
Disclosure  
Advisory  
Board

4.—(1) The Financial Disclosure Advisory Board established under *The Securities Act*, being chapter 426 of the Revised Statutes of Ontario, 1970, is continued and shall be composed of not more than five members appointed by the Lieutenant Governor in Council, and the Lieutenant Governor in Council may designate one of the members to be chairman.

Meetings

(2) The Financial Disclosure Advisory Board shall meet at the call of the Commission.

Duties

(3) The Financial Disclosure Advisory Board shall, when requested by the Commission, consult with and advise the Commission concerning the financial disclosure requirements of this Act and the regulations.

Remuner-  
ation

(4) The members of The Financial Disclosure Advisory Board shall serve without remuneration, but the Lieutenant Governor in Council may fix a *per diem* allowance to be payable to each member, and every member is entitled to his reasonable and necessary expenses, as certified by the chairman, for attending at meetings and transacting the business of the Board. R.S.O. 1970, c. 426, s. 146, *amended*.

## PART III

## APPOINTMENT OF EXPERTS

Appointment  
of experts

5.—(1) The Commission may appoint one or more experts to assist the Commission in such manner as it may consider expedient.

Submissions  
to experts

(2) The Commission may submit any agreement, prospectus, financial statement, report or other document to one or more experts appointed under subsection 1 for examination, and the Commission has the like power to summon and enforce the attendance of witnesses before the expert and to compel them to produce documents, records and things as is vested in the Commission, and subsections 3 and 4 of section 11 apply *mutatis mutandis*.

Payment  
of experts

(3) An expert appointed under subsection 1 shall be paid such amounts for services and expenses as the Lieutenant Governor in Council may determine. *New*.



## PART IV

## THE DIRECTOR

**6.** The Director may exercise the powers and shall perform <sup>Director</sup> the duties vested in or imposed upon him by this Act, and he may exercise the powers and shall perform the duties vested in or imposed upon the Commission by this Act or the regulations that are assigned to him by the Commission except those referred to in section 8 and sections 11 to 17 and, subject to the direction of the Commission, he is the chief administrative officer of the Commission. R.S.O. 1970, c. 426, s. 4.

**7.** Where,

Refunds

- (a) an application for registration or renewal of registration is abandoned; or
- (b) a preliminary prospectus or prospectus is withdrawn,

the Director may, upon the application of the person or company who made the application or filed the preliminary prospectus or prospectus, recommend to the Treasurer of Ontario that a refund of the fee paid on the making of the application or the filing of the preliminary prospectus or prospectus or such part thereof as he deems fair and reasonable be made, and the Treasurer may make such refund from the Consolidated Revenue Fund. R.S.O. 1970, c. 426, s. 17.

## PART V

## ADMINISTRATIVE PROCEEDINGS, REVIEWS AND APPEALS

**8.—(1)** The Director shall forthwith notify the Commission <sup>Notification of decision</sup> of every decision refusing registration under section 25 or refusing to issue a receipt for a prospectus under section 62 and the Commission may within thirty days of the decision notify the Director and any person or company directly affected of its intention to convene a hearing to review the decision. *New.*

(2) Any person or company directly affected by a decision <sup>Review of Director's decisions</sup> of the Director may, by notice in writing sent by registered

mail to the Commission within thirty days after the mailing of the notice of the decision, request and be entitled to a hearing and review thereof by the Commission.

Power on  
review

(3) Upon a hearing and review, the Commission may by order confirm the decision under review or make such other decision as the Commission considers proper. R.S.O. 1970, c. 426, s. 28; 1971, c. 31, s. 5.

Stay

(4) Notwithstanding that a person or company requests a hearing and review under subsection 2 of this section or subsection 4 of section 3, the decision under review takes effect immediately, but the Commission may grant a stay until disposition of the hearing and review. 1973, c. 11, s. 1.

Appeal

9.—(1) Any person or company directly affected by a decision of the Commission, other than a decision under section 75, may appeal to the Supreme Court.

Stay

(2) Notwithstanding that an appeal is taken under this section, the decision appealed from takes effect immediately, but the Commission or the Divisional Court may grant a stay until disposition of the appeal.

Certification  
of documents

(3) The Secretary shall certify to the Registrar of the Supreme Court,

- (a) the decision that has been reviewed by the Commission;
- (b) the decision of the Commission, together with any statement of reasons therefor;
- (c) the record of the proceedings before the Commission; and
- (d) all written submissions to the Commission or other material that is relevant to the appeal.

Minister  
entitled to  
appear

(4) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

Powers  
of court  
on appeal

(5) Where an appeal is taken under this section, the court may by its order direct the Commission to make such decision or to do such other act as the Commission is authorized and empowered to do under this Act or the

regulations and as the court considers proper, having regard to the material and submissions before it and to this Act and the regulations, and the Commission shall make such decision or do such act accordingly.

(6) Notwithstanding an order of the court, on an appeal, <sup>Further decisions</sup> the Commission may make any further decision upon new material or where there is a significant change in the circumstances, and every such decision is subject to this section. 1973, c. 11, s. 2, *amended*.

**10.**—(1) There shall be a Secretary to the Commission <sup>Secretary</sup> who may,

- (a) accept service of all notices or other documents on behalf of the Commission;
- (b) when authorized by the Commission, sign any decision made by the Commission as a result of a hearing;
- (c) certify under his hand any decision made by the Commission or any document, record or thing used in connection with any hearing by the Commission where certification is required for a purpose other than that stated in subsection 3 of section 9; and
- (d) exercise such other powers as are vested in him by this Act or the regulations and perform such other duties as are imposed upon him by this Act or the regulations or by the Commission.

(2) Where the Secretary is absent for any reason, the <sup>Acting Secretary</sup> Commission may designate another individual to act in the capacity of Secretary and the individual designated may exercise all the powers vested in the Secretary by this Act or the regulations.

(3) A certificate purporting to be signed by the Secretary <sup>Certification by Secretary</sup> is, without proof of the office or signature certifying, admissible in evidence, so far as is relevant, for all purposes in any action, proceeding or prosecution. *New*.

## PART VI

### INVESTIGATIONS

**11.**—(1) Where upon a statement made under oath it <sup>Investigation order</sup> appears probable to the Commission that any person or company has,

- (a) contravened any of the provisions of this Act or the regulations; or



R.S.C. 1970,  
c. C-34

(b) committed an offence under the *Criminal Code* (Canada) in connection with a trade in securities,

the Commission may, by order, appoint any person to make such investigation as it deems expedient for the due administration of this Act, and in the order shall determine and prescribe the scope of the investigation.

Investigation  
order

(2) The Commission may, by order, appoint any person to make such investigation as it deems expedient for the due administration of this Act or into any matter relating to trading in securities, and in such order shall determine and prescribe the scope of the investigation.

Scope of  
investigation

(3) For the purposes of any investigation ordered under this section, the person appointed to make the investigation may investigate, inquire into and examine,

(a) the affairs of the person or company in respect of which the investigation is being made and any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with such person or company and any property, assets or things owned, acquired or alienated in whole or in part by such person or company or by any person or company acting on behalf of or as agent for such person or company; and

(b) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to or in connection with any such person or company and the relationship that may at any time exist or have existed between such person or company and any other person or company by reason of investments, commissions promised, secured or paid, interests held or acquired, the loaning or borrowing of money, stock or other property, the transfer, negotiation or holding of stock, interlocking directorates, common control, undue influence or control or any other relationship.

Powers to  
summon  
witnesses and  
require  
production

(4) The person making an investigation under this section has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things, as is vested in the Supreme Court for the trial of civil actions, and the failure or refusal of a person to attend, to answer

questions or to produce such documents, records and things as are in his custody or possession makes the person liable to be committed for contempt by a judge of the Supreme Court as if in breach of an order or judgment of the Supreme Court provided that no provision of *The Evidence Act* exempts any bank or any officer or employee thereof from the operation of this section. R.S.O. 1970,  
c. 151

(5) A person giving evidence at an investigation under this section may be represented by counsel. Counsel

(6) Where an investigation is ordered under this section, the person appointed to make the investigation may seize and take possession of any documents, records, securities or other property of the person or company whose affairs are being investigated. Seizure  
of property

(7) Where any documents, records, securities or other property are seized under subsection 6, such documents, records, securities or other property shall be made available for inspection and copying by the person or company from whom seized at a mutually convenient time and place if a request for an opportunity to inspect or copy is made by such person or company to the person appointed to make the investigation. Inspection  
of seized  
documents

(8) Where an investigation is ordered under this section, the Commission may appoint an accountant or other expert to examine documents, records, properties and matters of the person or company whose affairs are being investigated. Accountants  
and experts  
R.S.O. 1970, c. 426, s. 21 (1-8).

(9) Every person appointed under subsection 1, 2 or 8 shall provide the Commission with a full and complete report of the investigation including any transcript of evidence and material in his possession relating to the investigation. Report of  
investigation  
R.S.O. 1970, c. 426, s. 21 (9), *amended*.

**12.** Where upon the report of an investigation made under section 11 it appears to the Commission that any person or company may have, Report to  
Minister

(a) contravened any of the provisions of this Act or the regulations; or

(b) committed an offence under the *Criminal Code* (Canada) in connection with a transaction relating to securities, R.S.C. 1970,  
c. C-34

the Commission shall send a full and complete report of the investigation, including the report made to it, any transcript

of evidence and any material in the possession of the Commission relating thereto, to the Minister. R.S.O. 1970, c. 426, s. 22.

Investigation  
by order of  
Minister

**13.** Notwithstanding section 11, the Minister may, by order, appoint any person to make such investigation as the Minister considers expedient for the due administration of this Act or into any matter relating to trading in securities, in which case the person so appointed, for the purposes of the investigation, has the same authority, powers, rights, and privileges as a person appointed under section 11. R.S.O. 1970, c. 426, s. 23.

Evidence not  
to be disclosed

**14.** No person, without the consent of the Commission, shall disclose, except to his counsel, any information or evidence obtained or the name of any witness examined or sought to be examined under section 11 or 13.

Report to  
Minister

**15.** Where an investigation has been made under section 11, the Commission may, and, where an investigation has been made under section 13, the person making the investigation shall report the result thereof, including the evidence, findings, comments and recommendations, to the Minister, and the Minister may cause the report to be published in whole or in part in such manner as he considers proper. R.S.O. 1970, c. 426, s. 25.

Order to  
freeze  
property

**16.—(1)** The Commission may,

- (a) where it is about to order an investigation in respect of a person or company under section 11 or during or after an investigation in respect of a person or company under section 11 or 13;
- (b) where it is about to make or has made an order under section 122 that trading in securities of an issuer shall cease;
- (c) where it is about to make or has made a decision suspending or cancelling the registration of any person or company or affecting the right of any person or company to trade in securities; or
- (d) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person or company, that in the opinion of the Commission are connected with or arise out of any security or any trade therein, or out of any business conducted by such person or company,

in writing or by telegram direct any person or company having on deposit or under control or for safekeeping any funds or securities of the person or company referred to in clause *a, b, c* or *d* to hold such funds or securities or direct the person or company referred to in clause *a, b, c* or *d* to refrain from withdrawing any such funds or securities from any other person or company having any of them on deposit, under control or for safekeeping or to hold all funds or securities of clients or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act*, *The Business Corporations Act*, the *Winding-up Act* (Canada) or section 17 of this Act, or until the Commission in writing revokes the direction or consents to release any particular fund or security from the direction, provided that no such direction applies to funds or securities in a stock exchange clearing house or to securities in process of transfer by a transfer agent unless the direction expressly so states, and in the case of a bank, loan or trust company, the direction applies only to the offices, branches or agencies thereof named in the direction.

R.S.C. 1970,  
cc. B-3, W-10,  
R.S.O. 1970,  
cc. 228, 89, 53

(2) Any person or company named in a direction issued under subsection 1 may, if in doubt as to the application of the direction to particular funds or securities, apply to the Commission for an order of clarification. R.S.O. 1970, c. 426, s. 26 (1, 2), *amended*.

Application  
for  
directions

(3) Upon the application of a person or company directly affected by a direction issued under subsection 1, the Commission may make an order on such terms and conditions it may impose revoking the direction or consenting to the release of any fund or security. *New*.

Revocation  
or  
amendment  
of direction

(4) In any of the circumstances mentioned in clause *a, b, c*, or *d* of subsection 1, the Commission may in writing or by telegram notify any land registrar or mining recorder that proceedings are being or are about to be taken that may affect land or mining claims belonging to the person or company referred to in the notice, which notice shall be registered or recorded against the lands or claims mentioned therein and has the same effect as the registration or recording of a certificate of *lis pendens* or a caution, and the Commission may in writing revoke or modify the notice. R.S.O. 1970, c. 426, s. 26 (3), *amended*.

Notice to  
land registry  
offices



Appointment  
of receiver,  
etc.

**17.—(1)** The Commission may,

- (a) where it is about to order an investigation in respect of a person or company under section 11 or during or after an investigation in respect of a person or company under section 11 or 13;
- (b) where it is about to make or has made an order under section 122 that trading in securities of an issuer shall cease;
- (c) where it is about to make or has made a decision suspending or cancelling the registration of any person or company or affecting the right of any person or company to trade in securities;
- (d) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person or company that in the opinion of the Commission are connected with or arise out of any security or any trade therein, or out of any business conducted by such person or company; or
- (e) where a person or company fails or neglects to comply with the minimum net asset requirements, investment restrictions, ownership restrictions, or capital requirements prescribed by the regulations for such person or company,

apply to a judge of the Supreme Court for the appointment of a receiver, receiver and manager, trustee or liquidator of the property of such person or company.

Appointment

(2) Upon an application under subsection 1, the judge may, where he is satisfied that the appointment of a receiver, receiver and manager, trustee or liquidator of all or any part of the property of any person or company is in the best interests of the creditors of any such person or company or of persons or companies any of whose property is in the possession or under the control of such person or company, or, in a proper case, of the security holders of or subscribers to such person or company, appoint a receiver, receiver and manager, trustee or liquidator of the property of such person or company. R.S.O. 1970, c. 426, s. 27 (1, 2), *amended*.

*Ex parte*  
application

(3) Upon an *ex parte* application made by the Commission under this section, the judge may make an order under subsection 2 appointing a receiver, receiver and manager, trustee or liquidator for a period not exceeding fifteen days. R.S.O. 1970, c. 426, s. 27 (3), *amended*.

(4) A receiver, receiver and manager, trustee or liquidator of the property of any person or company appointed under this section shall be the receiver, receiver and manager, trustee or liquidator of all or any part of the property belonging to the person or company or held by the person or company on behalf of or in trust for any other person or company, and the receiver, receiver and manager, trustee or liquidator shall have authority, if so directed by the judge, to wind up or manage the business and affairs of the person or company and all powers necessary or incidental thereto. Powers of receiver, etc.

(5) An order made under this section may be enforced in the same manner as any order or judgment of the Supreme Court and may be varied or discharged upon an application made by notice. Enforcement of order

(6) Upon an application made under this section, the rules of practice of the Supreme Court apply. R.S.O. 1970, c. 426, s. 27 (4-6), *amended*. Rules of practice

## PART VII

### AUDITS

**18.**—(1) Notwithstanding anything in sections 19, 20 and 21, the Commission may in writing appoint any person to examine at any time, Audits by Commission

- (a) the financial affairs of a registrant or a reporting issuer; and
- (b) the books and records of a custodian of assets of a mutual fund or of a custodian of shares or units of a mutual fund under a custodial agreement or other arrangement with a person or company engaged in the distribution of shares or units of the mutual fund,

and prepare such financial or other statements and reports that may be required by the Commission.

(2) The person making an examination under this section may inquire into and examine all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and records of every description of the person or company whose financial affairs are being examined, and no person or company shall withhold, destroy, conceal or refuse to give any information or thing reasonably required for the purpose of the examination. Access to records

(3) The Commission may charge such fees as may be prescribed by the regulations for any examination made under this section. R.S.O. 1970, c. 426, s. 33, *amended*. Fees

## PART VIII

## SELF-REGULATION—GENERALLY

Panel of  
auditors

**19.** Every stock exchange in Ontario recognized by the Commission, the Ontario District of the Investment Dealers' Association of Canada, the Broker-Dealers' Association of Ontario, and the Canadian Mutual Funds Association shall,

- (a) select a panel of auditors, each of whom shall have practised as such in Ontario for not fewer than five years and shall be known as a panel auditor or members' auditor; and
- (b) employ an exchange auditor, district association auditor or association auditor, as the case may be, whose appointment is subject to the approval of the Commission, and the appointee shall be an auditor who has practised as such in Ontario for not fewer than ten years. R.S.O. 1970, c. 426, s. 30.

Audits by  
stock  
exchange and  
associations

**20.**—(1) Every stock exchange in Ontario recognized by the Commission, the Ontario District of the Investment Dealers' Association of Canada, the Broker-Dealers' Association of Ontario and the Canadian Mutual Funds Association shall cause each member of such class or classes of their members as the Commission may designate in writing to appoint an auditor from the panel of auditors selected under clause *a* of section 19 and such auditor shall make the examination of the financial affairs of such member as called for by the by-laws, rules or regulations applicable to members of such class or classes and shall report thereon to the exchange auditor, district association auditor or association auditor, as the case may be.

Audit by-laws  
subject to  
approval

(2) The by-laws, rules and regulations of every stock exchange in Ontario recognized by the Commission, the rules and regulations of the Ontario District of the Investment Dealers' Association of Canada, the regulations of the Broker-Dealers' Association of Ontario and the by-laws, rules and regulations of the Canadian Mutual Funds Association in respect of the practice and procedure of the examinations under subsection 1 are subject to the approval of the Commission and the actual conduct of the examinations shall be satisfactory to the Commission. R.S.O. 1970, c. 426, s. 31.

Filing of  
financial  
statements of  
registrants

**21.** Every registrant whose financial affairs are not subject to examination under section 20 shall keep such books and records as are necessary for the proper recording

of his business transactions and financial affairs and shall deliver to the Commission annually and at such other time or times as the Commission may require a financial statement satisfactory to the Commission as to his financial position, certified by such registrant or an officer or partner of such registrant and reported upon by the auditor of such registrant, and shall deliver to the Commission such other information as the Commission may require in such form as it may prescribe. R.S.O. 1970, c. 426, s. 32.

## PART IX

### STOCK EXCHANGES

**22.**—(1) No person or company shall carry on business <sup>Stock exchanges</sup> as a stock exchange in Ontario unless such stock exchange is recognized in writing as such by the Commission.

(2) The Commission may, where it appears to it to be in <sup>Commission's powers</sup> the public interest, make any decision,

- (a) with respect to the manner in which any stock exchange in Ontario carries on business;
- (b) with respect to any by-law, ruling, instruction, or regulation of any such stock exchange;
- (c) with respect to trading on or through the facilities of any such stock exchange or with respect to any security listed and posted for trading on any such stock exchange; or
- (d) to ensure that issuers whose securities are listed and posted for trading on any such stock exchange comply with this Act and the regulations.

(3) Any person or company directly affected by any <sup>Review of decisions of stock exchange</sup> direction, order or decision made under any by-law, rule or regulation of a stock exchange in Ontario may apply to the Commission for a hearing and review thereof and section 8 applies to the hearing and review in the same manner as to the hearing and review of a decision of the Director. R.S.O. 1970, c. 426, s. 140.

**23.** Every stock exchange in Ontario shall keep a record <sup>Record of transactions</sup> showing the time at which each transaction on such stock exchange took place and shall supply to any customer of any member of such stock exchange, upon production of a written confirmation of any transaction with such member, particulars of the time at which the transaction took place and verification or otherwise of the matters set forth in the confirmation. R.S.O. 1970, c. 426, s. 141.



## PART X

## REGISTRATION

Registration  
for trading**24.—**(1) No person or company shall,

- (a) trade in a security unless such person or company is registered as a dealer, or is registered as a salesman or as a partner or as an officer of a registered dealer and is acting on behalf of such dealer;
- (b) act as an underwriter unless such person or company is registered as an underwriter;
- (c) act as an adviser unless such person or company is registered as an adviser, or is registered as a partner or as an officer of a registered adviser and is acting on behalf of such adviser;
- (d) act as a mutual fund unless such person or company is registered as a mutual fund;
- (e) act as a management company unless such person or company is registered as a management company;  
or
- (f) act as a contractual plan service company unless such person or company is registered as a contractual plan service company,

and such registration has been made in accordance with this Act and the regulations and such person or company has received written notice of such registration from the Director and, where such registration is subject to terms and conditions, the person or company complies with such terms and conditions. R.S.O. 1970, c. 426, s. 6 (1).

Termination  
re salesman

(2) The termination of the employment of a salesman with a registered dealer shall operate as a suspension of the registration of the salesman until notice in writing has been received by the Director from another registered dealer of the employment of the salesman by such other registered dealer and the reinstatement of the registration has been approved by the Director.

(3) The Director may designate as non-trading any employee or class of employees of a registered dealer that does not usually sell securities, but the designation may be cancelled as to any employee or class of employees where the Director is satisfied that any such employee or any member of such class of employees should be required to apply for registration as a salesman. R.S.O. 1970, c. 426, s. 6 (4, 5). Non-trading employee

**25.**—(1) The Director shall grant registration, renewal of registration, reinstatement of registration or amendment to registration to an applicant where in the opinion of the Director the applicant is suitable for registration and the proposed registration or amendment to registration is not objectionable. R.S.O. 1970, c. 426, s. 7 (1), *amended*. Granting of registration

(2) The Director may in his discretion restrict a registration by imposing terms and conditions thereon and, without limiting the generality of the foregoing, may restrict the duration of a registration and may restrict the registration to trades in certain securities or a certain class of securities. R.S.O. 1970, c. 426, s. 7 (3). Terms and conditions

(3) The Director shall not refuse to grant, renew, reinstate or amend registration or impose terms and conditions thereon without giving the applicant an opportunity to be heard. R.S.O. 1970, c. 426, s. 7 (2). Refusal

**26.**—(1) The Commission, after giving a registrant an opportunity to be heard, may suspend, cancel, restrict or impose terms and conditions upon the registration or reprimand the registrant where in its opinion such action is in the public interest. Suspension, cancellation, etc.

(2) Where the delay necessary for a hearing under subsection 1 would, in the opinion of the Commission, be prejudicial to the public interest, the Commission may suspend the registration without giving the registrant an opportunity to be heard, in which case it shall forthwith notify the registrant of the suspension and of a hearing and review to be held before the Commission within fifteen days of the date of the suspension, which hearing and review shall be deemed to be a hearing and review under section 8. R.S.O. 1970, c. 426, s. 8, *amended*. Interim suspension

(3) Notwithstanding subsection 1, the Commission may, upon an application by a registrant, accept, subject to such terms and conditions as it may impose, the voluntary surrender of the registration of the registrant where it is satisfied the financial obligations of the registrant to its clients have been discharged and the surrender of the registration would not be prejudicial to the public interest. Surrender  
*New.*

**Subsequent applications**      **27.** A further application for registration may be made upon new or other material or where it is clear that material circumstances have changed. R.S.O. 1970, c. 426, s. 9.

**Application**      **28.** An application for registration shall be made in writing upon a form prescribed by the regulations and provided by the Commission, and shall be accompanied by such fee as may be prescribed by the regulations. R.S.O. 1970, c. 426, s. 10.

**Address for service**      **29.** Every applicant shall state in the application an address for service in Ontario and, except as otherwise provided in this Act, all notices under this Act or the regulations are sufficiently served for all purposes if delivered or sent by prepaid mail to the latest address for service so stated. R.S.O. 1970, c. 426, s. 11.

**Further information**      **30.** The Director may require any further information or material to be submitted by an applicant or a registrant within a specified time and may require verification by affidavit or otherwise of any information or material then or previously submitted or may require the applicant or the registrant or any partner, officer, director, governor or trustee of, or any person performing a like function for, or any employee of, the applicant or of the registrant to submit to examination under oath by a person designated by the Director. R.S.O. 1970, c. 426, s. 12, *amended*.

**Residence**      **31.—(1)** The Director may refuse registration to an individual if he has not been a resident of Canada for at least one year immediately prior to the date of application for registration and if he is not a resident of Ontario at the date of such application unless at the time of such application such individual is registered in a capacity corresponding to that of a dealer, adviser, underwriter, mutual fund, management company, contractual plan service company, partner, officer, or salesman under the securities laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is, in the opinion of the Director, otherwise suitable for registration.

**Idem**      **(2)** The Director may refuse registration to a person or company if any director or officer of such person or company has not been a resident of Canada for at least one year immediately prior to the date of application for registration and is not a resident of Ontario at the date

of such application unless at the time of such application he is registered in a capacity corresponding to that of a dealer, adviser, underwriter, mutual fund, management company, contractual plan service company, partner, officer or salesman under the securities laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is, in the opinion of the Director, otherwise suitable for registration. R.S.O. 1970, c. 426, s. 14, *amended*.

**32.**—(1) Every registered dealer shall, within five days of the event, notify the Director in the form prescribed by the regulations of, <sup>Notice of changes</sup>

- (a) any change in address for service in Ontario or any business address;
- (b)
  - (i) any change in the directors or officers of the registered dealer and in the case of resignation, dismissal, severance or termination of employment or office, the reason therefor, and
  - (ii) any change in the holders of the voting securities of the registered dealer;
- (c) the commencement and termination of employment of every salesman and, in the case of termination of employment, the reason therefor;
- (d) the opening or closing of any branch office in Ontario and, in the case of the opening of any branch office in Ontario, the name and address of the person in charge thereof; and
- (e) any change in the name or address of the person in charge of any branch office in Ontario.

(2) Every registered adviser, underwriter, mutual fund, <sup>Idem</sup> management company, and contractual plan service company shall, within five days of the event, notify the Director in the form prescribed by the regulations of,

- (a) any change in address for service in Ontario or any business address; and
- (b)
  - (i) any change in the directors or officers of the registered adviser, underwriter, mutual fund, management company or contractual plan service company and in the case of resignation, dismissal, severance or termination of employment or office, the reason therefor, and



- (ii) any change in the holders of the voting securities of the registered adviser, underwriter, mutual fund, management company or contractual plan service company.

Idem

(3) Every registered salesman shall, within five days of the event, notify the Director in the form prescribed by the regulations of,

- (a) any change in his address for service in Ontario or in his business address; and
- (b) every commencement and termination of his employment by a registered dealer.

Exemptions

(4) The Director may, upon an application of a registrant that is a reporting issuer, exempt, subject to such terms and conditions as he may impose, the registrant from the requirement of subsections 1 and 2 that the Director be notified of any change in the holders of voting securities of the registrant where in his opinion it would not be prejudicial to the public interest to do so. R.S.O. 1970, c. 426, s. 15, *amended*.

## PART XI

### EXEMPTIONS FROM REGISTRATION REQUIREMENTS

Exemptions  
of advisers

**33.** Registration as an adviser is not required to be obtained by,

R.S.C. 1970,  
cc. B-1, I-9

R.S.O. 1970,  
cc. 254, 224

- (a) a bank to which the *Bank Act* (Canada) applies, or the Industrial Development Bank incorporated under the *Industrial Development Bank Act* (Canada), or a trust company registered under *The Loan and Trust Corporations Act*, or an insurance company licensed under *The Insurance Act*;
- (b) a lawyer, accountant, engineer or teacher;
- (c) a registered dealer, or any partner, officer or employee thereof; and
- (d) a publisher of or any writer for any *bona fide* newspaper, news magazine or business or financial publication of general and regular paid circulation distributed only to subscribers thereto for value or to purchasers thereof, who gives advice as an adviser only through such publication and has no interest either directly or indirectly in any of the securities upon which the advice is given and receives no

commission or other consideration for giving the advice,

where the performance of the service as an adviser is solely incidental to their principal business or occupation; or

- (e) a management company; or
- (f) such other persons or companies as are designated by the regulations. R.S.O. 1970, c. 426, s. 18, *amended*.

**34.** Registration as a mutual fund is not required to be obtained by, Exemptions  
of mutual  
funds

- (a) an investment club if,
  - i. its shares or units are held by not more than fifty persons,
  - ii. it does not pay or give any remuneration under a management contract or in respect of any trade in securities except normal brokerage fees, and
  - iii. all of its members are required to make contributions in proportion to the shares or units each holds for the purpose of investment;
- (b) a trust company registered under *The Loan and Trust Corporations Act* that issues securities in respect of, R.S.O. 1970,  
c. 254
  - i. an account solely to service a retirement savings plan registered under the *Income Tax Act* (Canada), or 1970-71,  
c. 63 (Can.)
  - ii. a pooled account in respect of which it does not solicit participation;
- (c) an insurance company licensed under the *Insurance Act*; R.S.O. 1970,  
c. 224
- (d) such other persons or companies as are designated by the regulations. *New*.

**35.**—(1) Subject to the regulations, registration is not required in respect of the following trades: Exemption  
of trades

1. A trade by an executor, administrator, guardian or committee or by an authorized trustee or assignee, an interim or official receiver or a custodian

R.S.C. 1970,  
cc. B-3, W-10  
R.S.O. 1970,  
cc. 228, 89, 53

under the *Bankruptcy Act* (Canada) or by a receiver under *The Judicature Act* or by a liquidator under *The Corporations Act*, *The Business Corporations Act*, or the *Winding-up Act* (Canada), or at a judicial sale.

2. An isolated trade in a specific security by or on behalf of an owner or issuer, for the owner's or issuer's account, where such trade is not made in the course of continued and successive transactions of a like nature, and is not made by a person or company whose usual business is trading in securities.

3. A trade where the party purchasing as principal is,

R.S.C. 1970,  
cc. B-1, I-9

- i. a bank to which the *Bank Act* (Canada) applies, or the Industrial Development Bank incorporated under the *Industrial Development Bank Act* (Canada),

R.S.O. 1970,  
c. 254

- ii. a loan corporation or trust company registered under *The Loan and Trust Corporations Act*,

R.S.O. 1970,  
c. 224

- iii. an insurance company licensed under *The Insurance Act*,

- iv. Her Majesty in right of Canada or any province or territory of Canada, or

- v. any municipal corporation or public board or commission in Canada.

4. A trade where the party purchasing as principal is a company or a person, other than an individual, and is recognized by the Commission as an exempt purchaser.

5. A trade where the purchaser purchases as principal, if the trade is in a security which has an aggregate acquisition cost to such purchaser of not less than \$97,000.

6. A trade from the holdings of any person, company or combination of persons or companies described in subparagraph iii of paragraph 12 of subsection 1 of section 1 for the purpose of giving collateral for a *bona fide* debt.

7. A trade by or for the account of a pledgee, mortgagee or other encumbrancer for the purpose of liquidating a *bona fide* debt by selling or offering

for sale a security pledged, mortgaged or otherwise encumbered in good faith as collateral for the debt.

8. A trade in a security that may occasionally be transacted by employees of a registered dealer where the employees do not usually sell securities and have been designated by the Director as non-trading employees, either individually or as a class.
9. A trade between a person or company and an underwriter acting as purchaser or between or among underwriters.
10. A trade in a security by a person or company,
  - (a) acting solely through an agent who is a registered dealer; or
  - (b) who places an unsolicited order to purchase or sell with,
    - i. a bank to which the *Bank Act* (Canada) R.S.C. 1970, c. B-1 applies, or
    - ii. a trust company registered under *The Loan and Trust Corporations Act*, R.S.O. 1970, c. 254

for execution through an agent who is a registered dealer.
11. A trade by an issuer,
  - i. in a security of its own issue that is distributed by it to holders of its securities as a stock dividend or other distribution out of earnings or surplus,
  - ii. in a security whether of its own issue or not that is distributed by it to holders of its securities as incidental to a *bona fide* reorganization or winding-up of such issuer or distribution of its assets for the purpose of winding up its affairs pursuant to the laws of the jurisdiction in which the issuer is incorporated, organized or continued,
  - iii. in a right, transferable or otherwise, granted by the issuer to holders of its securities to purchase additional securities of its own issue and the issue of securities pursuant to the



exercise of the right if the issuer has given the Commission written notice stating the date, amount, nature and conditions of the proposed sale, including the approximate net proceeds to be derived by the issuer on the basis of such additional securities being fully taken up and paid for, and either,

- (a) the Commission has not informed the issuer in writing within ten days of the giving of such notice that it objects to the proposed trade; or
- (b) the issuer has delivered to the Commission information relating to the security that is satisfactory to, and accepted by, the Commission, or

iv. in securities of its own issue transferred or issued through the exercise of a right to purchase or convert previously granted by such issuer,

provided that, with respect to any trade referred to in subparagraph i or ii, no commission or other remuneration is paid or given to others in respect of such distribution except for ministerial or professional services or for services performed by a registered dealer.

12. A trade in a security of a company that is exchanged by or for the account of such company with another company or the holders of the securities of that other company in connection with,

(a) a statutory amalgamation or arrangement; or

(b) a statutory procedure under which one company takes title to the assets of the other company which in turn loses its existence by operation of law, or under which the existing companies merge into a new company.

13. A trade in a security of a company that is exchanged by or for the account of such company with the security holders of another company in connection with a take-over bid as defined in Part XIX.

14. A trade in a security of an issuer in connection with an exempt offer as defined in Part XIX.

15. A trade by an issuer in a security of its own issue as consideration for a portion or all of the assets of any person or company, if the fair value of the assets so purchased is not less than \$100,000.
16. A trade by an issuer in the securities of its own issue with its employees or the employees of an affiliate who are not induced to purchase by expectation of employment or continued employment.
17. A trade made between an issuer in securities of its own issue and not more than twenty-five purchasers or made between such purchasers if each of the following requirements is satisfied,
  - i. each purchaser purchases as principal,
  - ii. each such purchaser,
    - (a) is an investor who, by virtue of his net worth and investment experience or by virtue of consultation with or advice from a registered adviser, is able to evaluate the prospective investment on the basis of information respecting the investment presented to him by the issuer or has access to substantially the same information concerning the issuer which the filing of a prospectus under this Act would provide; or
    - (b) is a senior officer or director of the issuer or his spouse, parent, brother, sister, or child,
  - iii. the offer and sale of the securities are not accompanied by an advertisement and no selling or promotional expenses have been paid or incurred in connection therewith, except for professional services or for services performed by a registered dealer,
  - iv. the solicitation in respect of the securities has not been made to more than fifty prospective purchasers, and
  - v. there are not more than twenty-five beneficial owners of securities as a result of trades pursuant to this exemption.

18. A trade in respect of which the regulations provide that registration is not required.

Exemption  
re securities

- (2) Subject to the regulations, registration is not required to trade in the following securities:

1. Bonds, debentures or other evidences of indebtedness,

(a) of or guaranteed by the Government of Canada or any province of Canada or by the Government of the United Kingdom or any foreign country or any political division thereof;

(b) of any municipal corporation in Canada, including debentures issued for public, separate, secondary or vocational school purposes, or guaranteed by any municipal corporation in Canada, or secured by or levied under the law of any province of Canada on property in such province and collectable by or through the municipality in which such property is situated;

R.S.C. 1970,  
c. B-1  
R.S.O. 1970,  
cc. 254, 224

(c) of or guaranteed by a bank to which the *Bank Act* (Canada) applies, a trust company or loan corporation registered under *The Loan and Trust Corporations Act* or an insurance company licensed under *The Insurance Act*; or

R.S.C. 1970,  
c. B-9

(d) of or guaranteed by the International Bank for Reconstruction and Development established by the Agreement for an International Bank for Reconstruction and Development approved by the *Bretton Woods Agreements Act* (Canada), if the bonds, debentures, or evidences of indebtedness are payable in the currency of Canada or the United States of America.

2. Contracts of insurance issued by an insurance company licensed under *The Insurance Act* other than variable contracts that do not guarantee to return on the termination of the policy an amount equal to at least three-quarters of the premiums paid to the date of termination.

3. Certificates or receipts issued by a trust company registered under *The Loan and Trust Corporations Act* for moneys received for guaranteed investment.

4. Securities issued by a trust company registered under *The Loan and Trust Corporations Act* in respect of an account maintained by it solely to service a retirement savings plan registered under the *Income Tax Act* (Canada) or a pooled account for participation in which no solicitation is made. 1970-71,  
c. 63 (Can.)
5. Securities issued by an investment club if,
  - (a) its shares or units are held by not more than fifty persons;
  - (b) it does not pay or give any remuneration under a management contract or in respect of a trade in securities except normal brokerage fees; and
  - (c) all of its members are required to make contributions in proportion to the shares or units each holds for the purpose of investment.
6. Negotiable promissory notes or commercial paper maturing not more than one year from the date of issue, provided that each such note or commercial paper traded to an individual has a denomination or principal amount of not less than \$50,000.
7. Mortgages or other encumbrances upon real or personal property, other than mortgages or other encumbrances contained in or secured by a bond, debenture or similar obligation or in a trust deed or other instrument to secure bonds or debentures or similar obligations, if such mortgages or other encumbrances are offered for sale by a person or company registered or exempted from registration under *The Mortgage Brokers Act*. R.S.O. 1970,  
c. 278
8. Securities evidencing indebtedness due under any conditional sales contract or other title retention contract providing for the acquisition of personal property if such securities are not offered for sale to an individual.
9. Securities issued by an issuer organized exclusively for educational, benevolent, fraternal, charitable, religious or recreational purposes and not for profit, where no part of the net earnings of such issuer enure to the benefit of any security holder and no commission or other remuneration is paid in connection with the sale thereof.



1973, c. 101

R.S.O. 1970,  
c. 96

10. Securities issued by corporations to which *The Co-operative Corporations Act, 1973* applies.
11. Shares of a credit union within the meaning of *The Credit Unions Act*.
12. Securities of a private company.
13. Securities issued and sold by a prospector for the purpose of financing a prospecting expedition.
14. Securities issued by a prospecting syndicate that has filed a prospecting syndicate agreement under Part XIII for which the Director has issued a receipt, where such securities are sold by the prospector or one of the prospectors who staked claims that belong to or are the subject of a declaration of trust in favour of the prospecting syndicate, and the prospector delivers the copy of the prospecting syndicate agreement to the person or company purchasing the security before accepting payment therefor.
15. Securities issued by a prospecting syndicate that has filed a prospecting syndicate agreement under Part XIII for which the Director has issued a receipt, if such securities are not offered for sale to the public and are sold to not more than fifty persons or companies.
16. Securities issued by a mining company or a mining exploration company as consideration for mining claims where the vendor enters into such escrow or pooling agreement as the Director considers necessary.
17. Securities in respect of which the regulations provide that registration is not required. R.S.O. 1970, c. 426, s. 19 (1, 2); 1971, c. 31, s. 3, *amended*.

Trades  
by trust  
company  
R.S.O. 1970,  
c. 254

(3) For the purpose of subsection 1, a trust company registered under *The Loan and Trust Corporations Act* shall be deemed to be acting as principal when it trades as trustee for accounts fully managed by it. *New*.

## PART XII

### TRADING IN SECURITIES GENERALLY

Confirmation  
of trade

**36.**—(1) Every registered dealer who has acted as principal or agent in connection with any trade in a security shall

promptly send by prepaid mail or deliver to the customer a written confirmation of the transaction, setting forth,

- (a) the quantity and description of the security;
  - (b) the consideration;
  - (c) whether or not the registered dealer is acting as principal or agent;
  - (d) if acting as agent in a trade, the name of the person or company from or to or through whom the security was bought or sold;
  - (e) the date and the name of the stock exchange, if any, upon which the transaction took place;
  - (f) the commission, if any, charged in respect of the trade; and
  - (g) the name of the salesman, if any, in the transaction.
- R.S.O. 1970, c. 426, s. 67 (1).

(2) Where a trade is made in a security of a mutual fund, <sup>Idem</sup> the confirmation shall contain, in addition to the requirements of subsection 1,

- (a) the price per share or unit at which the trade was effected; and
- (b) the amount deducted by way of sales, service and other charges.

(3) Where a trade is made in a security of a mutual fund <sup>Idem</sup> under a contractual plan, the confirmation shall contain in addition to the requirements of subsections 1 and 2,

- (a) in respect of an initial payment made under a contractual plan which requires the prepayment of sales, service and other charges, a statement of the initial payment and the portion of the sales, service and other charges that is allocated to subsequent investments in the mutual fund and the manner of allocation thereof;
- (b) in respect of each subsequent payment made under a contractual plan which requires the prepayment of sales, service and other charges, a statement of the portion of the sales, service and other charges, that is allocated to the payment which is the subject of the confirmation;

(c) in respect of an initial purchase made under a contractual plan which permits the deduction of sales, service and other charges from the first and subsequent instalments, a brief statement of the sales, service and other charges to be deducted from subsequent purchases;

(d) in respect of each purchase made under a contractual plan, a statement of the total number of shares or units of the mutual fund acquired and the amount of sales charges paid under the contractual plan up to the date the confirmation is sent or delivered.  
*New.*

Coded  
identification

(4) For the purposes of clauses *d* and *g* of subsection 1, a person or company or a salesman may be identified in a written confirmation by means of a code or symbols if the written confirmation also contains a statement that the name of the person, company or salesman will be furnished to the customer on request.

Filing  
of code

(5) Where a person or company uses a code or symbols for identification in a confirmation under subsection 1, the person or company shall forthwith file the code or symbols and their meaning, and shall notify the Commission within five days of any change in or addition to the code or symbols or their meaning. R.S.O. 1970, c. 426, s. 67 (2, 3).

Disclosure  
by agent

(6) Every dealer who has acted as agent in connection with any trade in a security shall promptly disclose to the Commission, upon request by the Commission, the name of the person or company from or to or through whom the security was bought or sold. R.S.O. 1970, c. 426, s. 67 (4), *amended*.

Order  
prohibiting  
calls to  
residences

**37.—**(1) The Director may, by order, suspend, cancel, restrict or impose terms and conditions upon the right of any person or company named in the order to,

(a) call at any residence; or

(b) telephone from within Ontario to any residence within or outside Ontario,

for the purpose of trading in any security. R.S.O. 1970, c. 426, s. 68 (1), *amended*.

Hearing

(2) The Director shall not make an order under subsection 1 without giving the person or company affected an opportunity to be heard. *New.*

(3) In this section, "residence" includes any building or part of a building in which the occupant resides either permanently or temporarily and any premises appurtenant thereto. <sup>"residence" defined</sup>

(4) For the purposes of this section, a person or company shall be deemed conclusively to have called or telephoned where an officer, director or salesman of the person or company calls or telephones on its behalf. R.S.O. 1970, c. 426, s. 68 (3, 4). <sup>What constitutes calls</sup>

**38.**—(1) No person or company, with the intention of effecting a trade in a security, other than a security that carries an obligation of the issuer to redeem or purchase, or a right of the owner to require redemption or purchase, shall make any representation, written or oral, that he or any person or company, <sup>Representations prohibited</sup>

(a) will resell or repurchase; or

(b) will refund all or any of the purchase price of,

such security.

(2) No person or company, with the intention of effecting a trade in a security, shall give any undertaking, written or oral, relating to the future value or price of such security. <sup>Future value</sup>

(3) No person or company, with the intention of effecting a trade in a security, shall, except with the written permission of the Director, make any representation, written or oral, that such security will be listed on any stock exchange or that application has been or will be made to list such security upon any stock exchange. <sup>Listing</sup>

(4) This section does not apply to any representation referred to in subsection 1 made to a person, other than an individual, or to a company where the representation is contained in a written agreement signed by the person or company intending to effect a trade in a security and the security has an aggregate acquisition cost of more than \$50,000. R.S.O. 1970, c. 426, s. 69. <sup>Application of section</sup>

**39.**—(1) Where a registered dealer, with the intention of effecting a trade in a security with any person or company other than another registered dealer, issues, publishes or sends a circular, pamphlet, letter, telegram or advertisement, and proposes to act in such trade as a principal, such registered dealer shall so state in the circular, pamphlet, letter, telegram or advertisement or otherwise in writing before entering into <sup>Where dealer is principal</sup>



a contract for the sale or purchase of any such security and before accepting payment or receiving any security or other consideration under or in anticipation of any such contract. R.S.O. 1970, c. 426, s. 70 (1).

Effect of  
statement

(2) A statement made in compliance with this section or clause *c* of subsection 1 of section 36 that a dealer proposes to act or has acted as principal in connection with a trade in a security does not prevent such dealer from acting as agent in connection with a trade of such security.

Application  
of section

(3) This section does not apply to trades referred to in subsection 1 of section 35 or to securities referred to in subsection 2 of section 35. R.S.O. 1970, c. 426, s. 70 (3, 4).

Disclosure of  
financial  
interest of  
advisers and  
dealers

**40.** Every registered adviser shall cause to be printed in a conspicuous position on every circular, pamphlet, advertisement, letter, telegram and other publication issued, published or sent out by him, in type not less legible than that used in the body of the circular, pamphlet, advertisement, letter or other publication, a full and complete statement of any financial or other interest that he or any partner, director, officer or a person or company that would be an insider of the adviser if the adviser was a reporting issuer may have either directly or indirectly in any securities referred to therein or in the sale or purchase thereof, including,

- (a) any ownership, beneficial or otherwise, that any of them may have in respect of such securities or in any securities issued by the same issuer;
- (b) any option that any of them may have in respect of such securities, and the terms thereof;
- (c) any commission or other remuneration that any of them has received or may expect to receive from any person or company in connection with any trade in such securities;
- (d) any financial arrangement relating to such securities that any of them may have with any person or company; and
- (e) any financial arrangement that any of them may have with any underwriter or other person or company who has any interest in the securities. R.S.O. 1970, c. 426, s. 72, *amended*.

Idem

**41.** Every registered dealer, that recommends a purchase, sale, exchange or hold of a security in any circular, pamphlet,

advertisement, letter, telegram or other publication issued, published or sent by it shall, in type not less legible than that used in the body of the publication, state whether it has at any time during the past year acted as an underwriter of such securities or as a financial adviser to the issuer of such securities or is presently acting as a financial adviser to the issuer of such securities or whether it will receive any fees as a result of the recommended action. *New.*

**42.** Every registered dealer shall publish the name of every person or company having an interest, either directly or indirectly, to the extent of not less than 5 per cent in the capital of the dealer, on all letterheads, circulars and stationery that contain any offer or solicitation respecting a trade in securities or in a preliminary prospectus or prospectus upon or in which the name of the registered dealer appears as underwriter. R.S.O. 1970, c. 426, s. 73, *amended*. Publication of names

**43.** No registrant shall use the name of another registrant on letterheads, forms, advertisements or signs, as correspondent or otherwise, unless he is a partner, officer or agent of or is authorized so to do in writing by the other registrant. R.S.O. 1970, c. 426, s. 74. Use of name of another registrant

**44.** No person or company shall hold himself out as being registered by having printed in a circular, pamphlet, advertisement, letter, telegram or other stationery that he is registered. R.S.O. 1970, c. 426, s. 75. Registration not to be advertised

**45.** No person or company who is not registered shall, either directly or indirectly, hold himself out as being registered. R.S.O. 1970, c. 426, s. 76. Holding out by unregistered person

**46.** No person or company shall make any representation, written or oral, that the Commission has in any way passed upon the financial standing, fitness or conduct of any registrant or upon the merits of any security or issuer. R.S.O. 1970, c. 426, s. 77. Advertising approval by Commission

**47.—(1)** Where a person, or a partner or employee of a partnership, or a director, officer or employee of a company, after he or the partnership or company has contracted as a registered dealer with any customer to buy and carry upon margin any securities of any issuer either in Canada or elsewhere, and while such contract continues, sells or causes to be sold securities of the same issuer for any account in which, Margin contracts

(a) he;

(b) his firm or a partner thereof; or

(c) the company or a director thereof,

has a direct or indirect interest, if the effect of such sale would, otherwise than unintentionally, be to reduce the amount of such securities in the hands of the dealer or under his control in the ordinary course of business below the amount of such securities that the dealer should be carrying for all customers any such contract with a customer is, at the option of the customer, voidable, and the customer may recover from the dealer all moneys paid with interest thereon or securities deposited in respect thereof.

Exercise  
of option

(2) The customer may exercise such option by a notice to that effect sent by prepaid mail addressed to the dealer at his address for service in Ontario. R.S.O. 1970, c. 426, s. 78.

Declaration  
as to short  
position

**48.** Any person or company who places an order for the sale of a security through an agent acting for him that is a registered dealer and, who,

(a) at the time of placing the order, does not own the security; or

(b) if acting as agent, knows his principal does not own the security,

shall, at the time of placing the order to sell, declare to his agent that he or his principal, as the case may be, does not own the security. R.S.O. 1970, c. 426, s. 79.

Shares in  
name of  
registrant  
not to be  
voted

**49.—(1)** Subject to subsection 4, voting securities of an issuer registered in the name of,

(a) a registrant or in the name of his nominee; or

(b) a custodian or in the name of his nominee, where such issuer is a mutual fund,

that are not beneficially owned by the registrant or the custodian, as the case may be, shall not be voted by the registrant or custodian at any meeting of security holders of the issuer.

Forwarding  
of informa-  
tion by  
registrant

(2) Forthwith after receipt of a copy of a notice of a meeting of security holders of an issuer, the registrant or custodian shall, where the name and address of the beneficial owner of securities registered in the name of the registrant or custodian are known, send or deliver to each beneficial owner of such security, a copy of any notice, financial statement, information circular or other material unless the beneficial

owner agrees in writing that such notice, statements, circular and other material need not be sent or delivered. R.S.O. 1970, c. 426, s. 80 (1), *amended*.

(3) At the request of a registrant or custodian, the person or company sending material referred to in subsection 2 shall forthwith furnish to the registrant or custodian, at the expense of the sender, the requisite number of copies of the material. Copies of information

(4) A registrant or custodian shall vote or give a proxy requiring a nominee to vote any voting securities referred to in subsection 1 in accordance with any written voting instructions received from the beneficial owner. Voting of shares

(5) A registrant or custodian shall, if requested in writing by a beneficial owner, give to the beneficial owner or his nominee a proxy enabling the beneficial owner or his nominee to vote any voting securities referred to in subsection 1. R.S.O. 1970, c. 426, s. 80 (3-5), *amended*. Proxies

(6) For the purpose of this section, "custodian" means a custodian of securities issued by a mutual fund held for the benefit of plan holders under a custodial agreement or other arrangement with a person or company engaged in, or administering a contractual plan in relation to, the distribution of securities of the mutual fund. *New*. "custodian" defined

**50.**—(1) Subject to subsections 2 and 3, no registered dealer shall purchase or sell shares or units of a mutual fund except in accordance with the terms of an agreement between such registered dealer and a distribution company or the mutual fund. Prohibition re secondary market in mutual fund shares

(2) The Commission may, upon application of a distribution company or mutual fund, order that the prohibition contained in subsection 1 shall not apply in respect of the shares or units of a mutual fund mentioned in the order, where it is satisfied that adequate arrangements have been made, Exemption by Commission

- (a) to permit the distribution company or mutual fund to carry out adequately its responsibilities relating to the distribution of such shares or units;
- (b) by the distribution company or mutual fund to prevent dealers in the shares or units of the mutual fund from taking undue advantage of the availability of the right to redeem the shares or units of the mutual fund; and
- (c) to facilitate enforcement of the penalty prescribed by the regulations for the early redemption of shares or



units of the mutual fund in a transaction in which the total consideration paid or to be paid by the purchaser for the shares or units is more than the sum of \$50,000.

Application  
of subs. 1

(3) Subsection 1 does not apply to the shares or units of a mutual fund in respect of which a prospectus has not been filed and a receipt therefor issued by the Director within the preceding fifteen months. *New.*

Submission  
of  
advertising

**51.**—(1) The Commission may, after giving the registered dealer an opportunity to be heard, and upon being satisfied that the registered dealer's past conduct with respect to the use of advertising and sales literature affords reasonable grounds for belief that it is necessary for the protection of the public to do so, order that the registered dealer shall deliver to the Commission at least seven days before it is used, copies of all advertising and sales literature which the registered dealer proposes to use in connection with trading in securities.

Interpre-  
tation

(2) For the purposes of this section,

(a) "advertising" includes television and radio commercials, newspaper and magazine advertisements and all other sales material generally disseminated through the communications media; and

(b) "sales literature" includes records, videotapes and similar material, written matter and all other material, except preliminary prospectuses and prospectuses, designed for use in a presentation to a purchaser, whether such material is given or shown to him.

Prohibition  
of  
advertising

(3) Where the Commission has issued an order pursuant to subsection 1, the Director may prohibit the use of the advertising and sales literature so delivered or may require that deletions or changes be made prior to its use.

Rescission  
or variation  
of order

(4) Where an order has been made pursuant to subsection 1, the Commission, on application of the registered dealer at any time after the date thereof, may rescind or vary the order where in its opinion it is not contrary to the public interest to do so. *New.*

Resale price  
maintenance

**52.**—(1) Subject to subsection 2, no mutual fund or distribution company shall, by any device or arrangement, whether oral or in writing, prevent or attempt to prevent any registrant, excepting one of its salesmen, where it is a dealer, from reducing any portion of sales charges that is payable to

such registrant upon the sale by such registrant of securities of the mutual fund if the sole purpose of the reduction is to enable the purchaser to purchase the securities at a proportionately lower price.

(2) A mutual fund or distribution company may refuse to sell the securities of the mutual fund to or through any dealer if the distribution company has reasonable cause to believe and does believe, Refusal  
to sell  
through  
dealer

- (a) that such dealer is operating a secondary market in the securities of the mutual fund;
- (b) that such dealer was making a practice of using securities of the mutual fund supplied by it not for the purpose of making a profit thereon, but for the purpose of advertising;
- (c) that such dealer was making a practice of using securities of the mutual fund supplied by it not for the purpose of selling them at a profit but for the purpose of attracting clients in the hope of selling them other securities;
- (d) that such dealer was making a practice of engaging in misleading advertising in respect of the securities of the mutual fund supplied by it; or
- (e) that such dealer made a practice of not providing the level of servicing that purchasers of the securities of the mutual fund might reasonably expect from such dealer. *New.*

## PART XIII

### PROSPECTING SYNDICATES

**53.**—(1) Upon the filing of a prospecting syndicate agree- Agreements  
ment and the issuance of a receipt therefor by the Director, the liability of the members of the syndicate or parties to the agreement is limited to the extent provided by the terms of the agreement where,

- (a) the sole purpose of the syndicate is the financing of prospecting expeditions, preliminary mining development, or the acquisition of mining properties, or any combination thereof;
- (b) the agreement clearly sets out,
  - (i) the purpose of the syndicate,

- (ii) the particulars of any transaction effected or in contemplation involving the issue of units for a consideration other than cash,
- (iii) the maximum amount, not exceeding 25 per cent of the sale price, that may be charged or taken by a person or company as commission upon the sale of units in the syndicate,
- (iv) the maximum number of units in the syndicate, not exceeding  $33\frac{1}{3}$  per cent of the total number of units of the syndicate, that may be issued in consideration of the transfer to the syndicate of mining properties,
- (v) the location of the principal office of the syndicate and that the principal office shall at all times be maintained in Ontario and that the Director and the members of the syndicate shall be notified immediately of any change in the location of the principal office,
- (vi) that a person or company holding mining properties for the syndicate shall execute a declaration of trust in favour of the syndicate with respect to such mining properties,
- (vii) that after the sale for cash of any issued units of the syndicate no mining properties shall be acquired by the syndicate other than by staking unless such acquisition is approved by members of the syndicate holding at least two-thirds of the issued units of the syndicate that have been sold for cash,
- (viii) that the administrative expenditures of the syndicate, including, in addition to any other items, salaries, office expenses, advertising and commissions paid by the syndicate with respect to the sale of its units, shall be limited to one-third of the total amount received by the treasury of the syndicate from the sale of its units,
- (ix) that a statement of the receipts and disbursements of the syndicate shall be furnished to the Director and to each member annually,
- (x) that 90 per cent of the vendor units of the syndicate shall be escrowed units and may be released upon the consent of the Director and that any release of such units shall not be in excess of one vendor unit for each unit of the syndicate sold for cash,

(xi) that no securities, other than those of the syndicate's own issue, and no mining properties owned by the syndicate or held in trust for the syndicate shall be disposed of unless such disposal is approved by members of the syndicate holding at least two-thirds of the issued units of the syndicate other than escrowed units; and

(c) the agreement limits the capital of the syndicate to a sum not exceeding \$100,000.

(2) The Director may in his discretion issue a receipt for a prospecting syndicate agreement filed under this section and is not required to determine whether it is in conformity with clauses *a*, *b* and *c* of subsection 1. Receipt for filed agreement

(3) After a receipt is issued by the Director for a prospecting syndicate agreement, the requirements of *The Partnerships Registration Act* as to filing do not apply to the prospecting syndicate. Application of R.S.O. 1970, c. 340

(4) No registered dealer shall trade in a security issued by a prospecting syndicate either as agent for the prospecting syndicate or as principal. R.S.O. 1970, c. 426, s. 34, *amended*. Prohibition of trading by dealer

(5) The Director shall not refuse to issue a receipt under subsection 1 without giving the person or company who filed the prospecting syndicate agreement an opportunity to be heard. *New*. Receipt

## PART XIV

### PROSPECTUSES—DISTRIBUTION

**54.**—(1) No person or company shall trade in a security on his own account or on behalf of any other person or company where such trade would be a distribution of such security unless a preliminary prospectus and a prospectus have been filed and receipts therefor obtained from the Director. R.S.O. 1970, c. 426, s. 35 (1), *amended*. Prospectus required

(2) A preliminary prospectus and a prospectus may be filed in accordance with this Part to enable the issuer to become a reporting issuer, notwithstanding the fact that no distribution is contemplated. *New*. Filing without distribution

**55.**—(1) A preliminary prospectus shall substantially comply with the requirements of this Act and the regulations respecting the form and content of a prospectus, except Preliminary prospectus



that the report or reports of the auditor or accountant required by the regulations need not be included.

**Idem** (2) A preliminary prospectus may exclude information with respect to the price to the underwriter and offering price of any securities and other matters dependent upon or relating to such prices. R.S.O. 1970, c. 426, s. 38, *amended*.

**Receipt for preliminary prospectus** **56.** The Director shall issue a receipt for a preliminary prospectus forthwith upon the filing thereof. R.S.O. 1970, c. 426, s. 35 (2).

**Prospectus** **57.**—(1) A prospectus shall provide full, true, and plain disclosure of all material facts relating to the securities issued or proposed to be distributed and shall comply with the requirements of this Act and the regulations.

**Supplemental material** (2) The prospectus shall contain or be accompanied by such financial statements, reports, or other documents as are required by this Act or the regulations. R.S.O. 1970, c. 426, s. 41, *amended*.

**Amendment to preliminary prospectus on material change** **58.**—(1) Where a material adverse change occurs after a receipt is obtained for a preliminary prospectus filed in accordance with subsection 1 of section 54 and before the receipt for the prospectus is obtained or, where a material change occurs after the receipt for the prospectus is obtained but prior to the completion of the distribution under such prospectus, an amendment to such preliminary prospectus or prospectus, as the case may be, shall be filed as soon as practicable and in any event within ten days after the change occurs.

**Notice of amendment** (2) An amendment to a preliminary prospectus referred to in subsection 1 shall, forthwith after it has been filed, be forwarded to each recipient of the preliminary prospectus according to the record maintained under section 68. R.S.O. 1970, c. 426, s. 40 (2, 3), *amended*.

**Certificate by issuer** **59.**—(1) Subject to subsection 3, a prospectus filed under subsection 1 of section 54 shall contain a certificate in the following form, signed by the chief executive officer, the chief financial officer, and, on behalf of the board of directors, any two directors of the issuer, other than the foregoing, duly authorized to sign, and any person or company who is a promoter of the issuer:

*The foregoing constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by Part XIV of The Securities Act, 1975 and the regulations thereunder.*

(2) Subject to subsection 3, a prospectus filed under <sup>Idem</sup> subsection 2 of section 54 shall contain a certificate in the following form, signed by the chief executive officer, the chief financial officer, and, on behalf of the board of directors, any two directors of the issuer, other than the foregoing, duly authorized to sign, and any person or company who is a promoter of the issuer:

*The foregoing constitutes full, true and plain disclosure of all material facts relating to the securities previously issued by the issuer as required by Part XIV of The Securities Act, 1975 and the regulations thereunder.*

(3) Where the issuer has only three directors, two of whom <sup>Idem</sup> are the chief executive officer and the chief financial officer, the certificate may be signed by all the directors of the issuer.

(4) Where the Director is satisfied upon evidence or sub- <sup>Idem</sup> missions made to him that either, or both of, the chief executive officer or chief financial officer of the issuer is for adequate cause not available to sign a certificate in a prospectus, the Director may permit the certificate to be signed by any other responsible officer or officers of the issuer in lieu of either, or both of, the chief executive officer or chief financial officer.

(5) With the consent of the Director, a promoter need not <sup>Idem</sup> sign the certificate in a prospectus.

(6) The Director may, in his discretion, require any <sup>Certificate of promoter</sup> person or company who was a promoter of the issuer within the two preceding years to sign the certificate required by subsection 1 or 2 subject to such conditions as the Director may consider proper.

(7) With the consent of the Director, a promoter may sign <sup>Idem</sup> a certificate in a prospectus by his agent duly authorized in writing. R.S.O. 1970, c. 426, s. 52, *amended*.

**60.**—(1) Where there is an underwriter, a prospectus shall contain a certificate in the following form, signed by the underwriter or underwriters who, with respect to the securities offered by the prospectus, are in a contractual relationship with the issuer or security holder whose securities are being offered by the prospectus: <sup>Certificate of underwriter</sup>

*To the best of our knowledge, information and belief, the foregoing constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by Part XIV of The Securities Act, 1975 and the regulations thereunder.*

- Idem** (2) With the consent of the Director, an underwriter may sign a certificate in a prospectus by his agent duly authorized in writing. R.S.O. 1970, c. 426, s. 53, *amended*.
- Statement of rights** **61.** Every prospectus shall contain a statement of the rights given to a purchaser by sections 72 and 125. R.S.O. 1970, c. 426, ss. 64 (9), 65 (8), *amended*.
- Issuance of receipt** **62.**—(1) Subject to subsection 2, the Director shall issue a receipt for a prospectus filed under this Part unless it appears to him that it is not in the public interest to do so.
- Refusal of receipt** (2) The Director shall not issue a receipt for a prospectus if it appears to him that,
- (a) the prospectus or any document required to be filed therewith,
    - (i) fails to comply in any substantial respect with any of the requirements of this Part or the regulations,
    - (ii) contains any statement, promise, estimate or forecast that is misleading, false or deceptive, or
    - (iii) contains a misrepresentation;
  - (b) an unconscionable consideration has been paid or given or is intended to be paid or given for promotional purposes or for the acquisition of property;
  - (c) the proceeds from the sale of the securities to which the prospectus relates that are to be paid into the treasury of the issuer, together with other resources of the issuer, are insufficient to accomplish the purpose of the issue stated in the prospectus;
  - (d) having regard to the financial condition of the issuer or an officer, director, promoter, or a person or company or combination of persons or companies holding sufficient of the securities of the issuer to affect materially the control of such issuer, the issuer cannot reasonably be expected to be financially responsible in the conduct of its business;
  - (e) the past conduct of the issuer or an officer, director, promoter, or a person or company or combination of persons or companies holding sufficient of the securities of the issuer to affect materially the

control of such issuer affords reasonable grounds for belief that the business of the issuer will not be conducted with integrity and in the best interests of its security holders;

- (f) such escrow or pooling agreement as the Director considers necessary or advisable with respect to securities has not been entered into;
- (g) such agreement as the Director considers necessary or advisable to accomplish the objects indicated in the prospectus for the holding in trust of the proceeds payable to the issuer from the sale of the securities pending the distribution of such securities has not been entered into;
- (h) in the case of a prospectus filed by a finance company, as defined in the regulations,
  - (i) the plan of distribution of the securities offered is not acceptable,
  - (ii) the securities offered are not secured in such manner, on such terms and by such means as are required by the regulations, or
  - (iii) such finance company does not meet such financial and other requirements and conditions as are specified in the regulations; or
- (i) a person or company who has prepared or certified any part of the prospectus or is named as having prepared or certified a report or valuation used in or in connection with a prospectus is not acceptable to him.

(3) The Director shall not refuse to issue a receipt under subsection 1 or 2 without giving the person or company who filed the prospectus an opportunity to be heard. <sup>Hearing</sup> R.S.O. 1970, c. 426, s. 61 (1, 2); 1971, c. 31, s. 16, *amended*.

(4) Where it appears to the Director that a preliminary prospectus, *pro forma* prospectus, or prospectus raises a material question involving the public interest under subsection 1 or a new or novel question of interpretation under subsection 2 that might result in the Director refusing to issue a receipt under subsection 1 or 2, the Director may refer the question to the Commission for determination. <sup>Referral to Commission</sup>



Form of question	(5) The Director shall state the question in writing setting out the facts upon which the question is based.
Filing of question	(6) The question, together with any additional material, shall be lodged by the Director with the Secretary of the Commission, and a copy of the question shall forthwith be served by the Director upon any interested person or company.
Hearing by Commission	(7) The Commission, after giving the parties an opportunity to be heard, shall consider and determine the question and refer the matter back to the Director for final consideration under subsections 1 and 2.
Decision of Commission	(8) Subject to any order of the Supreme Court made under section 9, the decision of the Commission on the question is binding on the Director. <i>New.</i>
Refiling of prospectus	<p><b>63.</b>—(1) No distribution of a security shall continue longer than twelve months from either,</p> <ul style="list-style-type: none"> <li>(a) the date of the issuance of the receipt for the preliminary prospectus relating to such security; or</li> <li>(b) the date of the last prospectus filed under this section,</li> </ul> <p>as the case may be, which shall be the lapse date, unless a new prospectus that complies with this Part is filed and a receipt therefor is obtained from the Director. R.S.O. 1970, c. 426, s. 56; 1971, c. 31, s. 11, <i>amended.</i></p>
Idem	<p>(2) A distribution may be continued for a further twelve months if,</p> <ul style="list-style-type: none"> <li>(a) a <i>pro forma</i> prospectus prepared in accordance with the regulations is filed not less than thirty days prior to the lapse date of the previous prospectus;</li> <li>(b) a prospectus is filed not later than ten days following the lapse date of the previous prospectus; and</li> <li>(c) a receipt for the prospectus is obtained from the Director within the twenty days following the lapse date of the previous prospectus.</li> </ul>
Failure to refile	(3) Subject to any extension granted under subsection 4, all trades completed in reliance upon subsection 2 after the lapse date may be cancelled at the option of the purchaser within ninety days of the purchaser's first knowledge of the

failure to comply with such conditions where any of the conditions to the continuation of a distribution under subsection 2 are not complied with.

(4) The Commission may, upon an application of a reporting issuer, extend, subject to such terms and conditions as it may impose, the times provided by subsection 2 where in its opinion it would not be prejudicial to the public interest to do so. *New.* Extension of time

**64.**—(1) No dealer shall engage in the distribution of a security to which section 54 or 63 is applicable until such dealer has notified the Commission in writing of his intention to engage in such distribution. Notice to Commission of distribution to public

(2) Every dealer shall forthwith notify the Commission in writing when he has ceased to engage in the distribution of a security to which section 54 or 63 is applicable. R.S.O. 1970, c. 426, s. 54, *amended.* Notice of Commission of cessation of distribution to public

**65.**—(1) Where a person or company proposing to make a distribution of previously issued securities of an issuer is unable to obtain from the issuer of such securities information or material that is necessary for the purpose of complying with this Part or the regulations, the Director may order the issuer of such securities to furnish to the person or company that proposes to make the distribution such information and material as the Director considers necessary for the purposes of the distribution, upon such terms and subject to such conditions as he considers proper, and all such information and material may be used by the person or company to whom it is furnished for the purpose of complying with this Part and the regulations. Orders to furnish information re distribution to public

(2) Where a person or company proposing to make a distribution of previously issued securities of an issuer is unable to obtain any or all of the signatures to the certificates required by this Act or the regulations, or otherwise to comply with this Part or the regulations, the Director may, upon being satisfied that all reasonable efforts have been made to comply with this Part and the regulations and that no person or company is likely to be prejudicially affected by such failure to comply, make such order waiving any of the provisions of this Part or the regulations as he considers advisable, upon such terms and subject to such conditions as he considers proper. R.S.O. 1970, c. 426, s. 60, *amended.* Idem

## PART XV

## DISTRIBUTION—GENERALLY

“waiting  
period”  
defined

**66.**—(1) In this section, “waiting period” means the interval, which shall be at least ten days, between the issuance by the Director of a receipt for a preliminary prospectus relating to the offering of a security and the issuance by him of a receipt for the prospectus.

Distribution  
of material  
during  
waiting  
period

(2) Notwithstanding section 54, but subject to Part XII, it is permissible during the waiting period,

- (a) to distribute a notice, circular, advertisement or letter to or otherwise communicate with any person or company identifying the security proposed to be issued, stating the price thereof, if then determined, the name and address of a person or company from whom purchases of the security may be made and containing such further information as may be permitted or required by the regulations, if every such notice, circular, advertisement, letter or other communication states the name and address of a person or company from whom a preliminary prospectus may be obtained;
- (b) to distribute a preliminary prospectus; and
- (c) to solicit expressions of interest from a prospective purchaser if, prior to such solicitation or forthwith after the prospective purchaser indicates an interest in purchasing the security, a copy of the preliminary prospectus is forwarded to him. R.S.O. 1970, c. 426, s. 36.

Distribution  
of  
preliminary  
prospectus

**67.** Any dealer distributing a security to which section 66 applies shall, in addition to the requirements of clause *c* of subsection 2 of section 66, send a copy of the preliminary prospectus to each prospective purchaser who, without solicitation, indicates an interest in purchasing the security and requests a copy of such preliminary prospectus. R.S.O. 1970, c. 426, s. 37, *amended*.

Distribution  
list

**68.** Any dealer distributing a security to which section 66 applies shall maintain a record of the names and addresses of all persons and companies to whom the preliminary prospectus has been forwarded. *New*.

Defective  
preliminary  
prospectus

**69.** Where it appears to the Director that a preliminary prospectus is defective in that it does not substantially comply with the requirements of this Act and the regula-

tions as to form and content, he may, without giving notice, order that the trading permitted by subsection 2 of section 66 in the security to which the preliminary prospectus relates shall cease until a revised preliminary prospectus satisfactory to the Director is filed and forwarded to each recipient of the defective preliminary prospectus according to the record maintained under section 68. R.S.O. 1970, c. 426, s. 40 (1).

**70.** From the date of the issuance by the Director of a receipt for a prospectus relating to a security, a person or company trading in the security in a distribution, either on his own account or on behalf of any other person or company, may distribute the prospectus, any document filed with or referred to in the prospectus and any notice, circular, advertisement or letter of the nature described in clause *a* of subsection 2 of section 66 or in the regulations, but shall not distribute any other printed or written material respecting the security that is prohibited by the regulations. R.S.O. 1970, c. 426, s. 57; 1971, c. 31, s. 12, *amended*. Material given on distribution

**71.—(1)** Where it appears to the Commission, after the filing of a prospectus under this Part and the issuance of a receipt therefor, that any of the circumstances set out in subsection 2 of section 62 exist, the Commission may order that the distribution of the securities under the prospectus shall cease. Order to cease trading

(2) No order shall be made under subsection 1 without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event a temporary order may be made which shall expire fifteen days from the date of the making thereof unless the hearing is commenced in which case the Commission may extend the order until the hearing is concluded. Hearing

(3) A notice of every order made under this section shall be served upon the issuer to whose securities the prospectus relates and upon every dealer who has notified the Commission of his intention to engage in the distribution of the securities, and forthwith upon the receipt of the notice, Notice

(a) distribution of the securities under prospectus by the person or company named in the order shall cease; and

(b) any receipt issued by the Director for the prospectus is revoked. R.S.O. 1970, c. 426, s. 62; 1971, c. 31, s. 17, *amended*.



Obligation  
to deliver  
prospectus

**72.—(1)** A dealer not acting as agent of the purchaser who receives an order or subscription for a security offered in a distribution to which subsection 1 of section 54 or section 63 is applicable shall, unless he has previously done so, send by prepaid mail or deliver to the purchaser the latest prospectus and any amendment to the prospectus filed either before entering into an agreement of purchase and sale resulting from the order or subscription or not later than midnight on the second day, exclusive of Saturdays, Sundays, and holidays, after entering into such agreement.

Withdrawal  
from  
purchase

(2) An agreement of purchase and sale referred to in subsection 1 is not binding upon the purchaser, if the dealer from whom the purchaser purchases the security receives written or telegraphic notice evidencing the intention of the purchaser not to be bound by the agreement of purchase and sale not later than midnight on the second day, exclusive of Saturdays, Sundays, and holidays, after receipt by the purchaser of the latest prospectus and any amendment to the prospectus.

Application  
of subs. 2

(3) Subsection 2 does not apply if the purchaser is a registrant or if the purchaser sells or otherwise transfers beneficial ownership of the security referred to in subsection 2, otherwise than to secure indebtedness, before the expiration of the time referred to in subsection 2.

Time of  
receipt

(4) For the purpose of this section, where the latest prospectus and any amendment to the prospectus is sent by prepaid mail, the latest prospectus and any amendment to the prospectus shall be deemed conclusively to have been received in the ordinary course of mail by the person or company to whom it was addressed.

Receipt of  
prospectus  
by agent

(5) The receipt of the latest prospectus or any amendment to the prospectus by a dealer who is acting as agent of or who thereafter commences to act as agent of the purchaser with respect to the purchase of a security referred to in subsection 1 shall, for the purpose of this section, be receipt by the purchaser as of the date on which the agent received such latest prospectus and any amendment to the prospectus.

Receipt of  
notice by  
agent

(6) The receipt of the notice referred to in subsection 2 by a dealer who acted as agent of the vendor with respect to the sale of the security referred to in subsection 1 shall, for the purpose of this section, be receipt by the vendor as of the date on which the agent received such notice.

(7) For the purpose of this section, a dealer shall not be considered to be acting as agent of the purchaser unless the dealer is acting solely as agent of the purchaser with respect to the purchase and sale in question and has not received and has no agreement to receive compensation from or on behalf of the vendor with respect to the purchase and sale. Dealer  
as agent

(8) The onus of proving that the time for giving notice under subsection 2 has expired is upon the dealer from whom the purchaser has agreed to purchase the security. Onus of  
proof  
R.S.O. 1970, c. 426, s. 64; 1971, c. 31, s. 19, *amended*.

## PART XVI

### EXEMPTIONS FROM PROSPECTUS REQUIREMENTS

**73.—**(1) Subject to the regulations, sections 54 and 63 do not apply to a distribution where, Prospectus  
not  
required

(a) the purchaser is,

- (i) a bank to which the *Bank Act* (Canada) applies or the Industrial Development Bank incorporated under the *Industrial Development Bank Act* (Canada), R.S.C. 1970,  
cc. B-1, I-9
- (ii) a loan corporation or trust company registered under *The Loan and Trust Corporations Act*, R.S.O. 1970,  
c. 254
- (iii) an insurance company licensed under *The Insurance Act*, R.S.O. 1970,  
c. 224
- (iv) Her Majesty in right of Canada or any province or territory of Canada, or
- (v) any municipal corporation or public board or commission in Canada,

who purchases as principal;

- (b) the trade is an isolated trade in a specific security by or on behalf of an issuer, for the issuer's account, where such trade is not made in the course of continued and successive transactions of a like nature, and is not made by a person or company whose usual business is trading in securities;
- (c) the party purchasing as principal is a company or a person, other than an individual, and is recognized by the Commission as an exempt purchaser;

- (d) the purchaser purchases as principal, if the trade is in a security which has an aggregate acquisition cost to such purchaser of not less than \$97,000;
- (e) the trade is to a lender, pledgee, mortgagee or other encumbrancer from the holdings of any person, company or combination of persons or companies described in subparagraph iii of paragraph 12 of subsection 1 of section 1 for the purpose of giving collateral for a *bona fide* debt;
- (f) the trade is made by an issuer,
  - (i) in a security of its own issue that is distributed by it to holders of its securities as a stock dividend or other distribution out of earnings or surplus,
  - (ii) in a security whether of its own issue or not that is distributed by it to holders of its securities as incidental to a *bona fide* reorganization or winding up of such issuer or distribution of its assets for the purpose of winding up its affairs pursuant to the laws of the jurisdiction in which the issuer was incorporated, organized or continued,
  - (iii) in a right, transferable or otherwise, granted by the issuer to holders of its securities to purchase additional securities of its own issue and the issue of securities pursuant to the exercise of the right if the issuer has given the Commission written notice stating the date, amount, nature and conditions of the proposed sale, including the approximate net proceeds to be derived by the issuer on the basis of such additional securities being fully taken up and paid for, and either,
    - a. the Commission has not informed the issuer in writing within ten days of the giving of such notice that it objects to the proposed trade, or •
    - b. the issuer has delivered to the Commission information relating to the securities that is satisfactory to, and accepted by, the Commission, or

- (iv) in securities of its own issue transferred or issued through the exercise of a right to purchase or convert previously granted by the issuer,

provided that, with respect to any trade referred to in subclause i or ii, no commission or other remuneration is paid or given to others in respect of such distribution except for ministerial or professional services or for services performed by a registered dealer;

- (g) the trade is made in a security of a company that is exchanged by or for the account of such company with another company or the holders of the securities of that other company in connection with,
  - (i) a statutory amalgamation or arrangement, or
  - (ii) a statutory procedure under which one company takes title to the assets of the other company which in turn loses its existence by operation of law, or under which the existing companies merge into a new company;
- (h) the trade is made in a security of a company that is exchanged by or for the account of such company with the security holders of another company in connection with a take-over bid as defined in Part XIX;
- (i) the trade is made in a security of an issuer in connection with an exempt offer as defined in Part XIX;
- (j) the trade is made by an issuer in a security of its own issue as consideration for a portion or all of the assets of any person or company, if the fair value of the assets so purchased is not less than \$100,000;
- (k) the trade is made by an issuer in a security of its own issue in consideration of mining claims where the vendor enters into such escrow or pooling agreement as the Director considers necessary;
- (l) the trade is made by an issuer in the securities of its own issue with its employees or the employees of an affiliate who are not induced to purchase by expectation of employment or continued employment;



(m) the trade is made between an issuer in securities of its own issue and not more than twenty-five purchasers or is made between such purchasers if each of the following requirements is satisfied,

(i) each such purchaser purchases as principal,

(ii) each such purchaser,

a. is an investor who, by virtue of his net worth and investment experience or by virtue of consultation with or advice from a registered adviser, is able to evaluate the prospective investment on the basis of information respecting the investment presented to him by the issuer or has access to substantially the same information concerning the issuer that the filing of a prospectus under this Act would provide, or

b. is a senior officer or director of the issuer or his spouse, parent, brother, sister or child,

(iii) the offer and sale of the securities are not accompanied by an advertisement and no selling or promotional expenses have been paid or incurred in connection therewith, except for professional services or for services performed by a registered dealer,

(iv) the solicitation in respect of the securities has not been made to more than fifty prospective purchasers, and

(v) there are not more than twenty-five beneficial owners of securities as a result of trades pursuant to this exemption;

(n) the trade is made from one registered dealer to another registered dealer where the registered dealer making the purchase is acting as principal; or

(o) the trade is made between a person or company and an underwriter acting as purchaser or between or among underwriters.

Trust  
companies  
deemed  
principals  
R.S.O. 1970,  
c. 254

(2) For the purpose of subsection 1, a trust company registered under *The Loan and Trust Corporations Act* shall

be deemed to be acting as principal when it trades as trustee for accounts fully managed by it.

(3) Where a trade has been made under clause *a, b, c, d, j*, <sup>Report</sup> *m* or *n* of subsection 1, the vendor shall within ten days file a report prepared and executed in accordance with the regulations.

(4) The first trade in securities acquired pursuant to an <sup>First trades deemed distribution</sup> exemption contained in clause *a, b, c, d, j, k, m* or *n* of subsection 1, other than a further trade exempted by subsection 1, is a distribution, unless,

- (a) the issuer of the security is a reporting issuer and is not in default of any requirement of this Act or the regulations;
- (b)
  - (i) such securities are listed and posted for trading on a stock exchange recognized for this purpose by the Commission and comply with the requirements of either clause *m* or *n* of subsection 1 of section 383 of *The Insurance Act*, <sup>R.S.O. 1970, c. 224</sup> and have been held at least six months from the date of the initial exempt trade or the date the issuer became a reporting issuer, whichever is the later, or
  - (ii) such securities are bonds, debentures or other evidences of indebtedness issued or guaranteed by an issuer and comply with the requirements of clause *k* of subsection 1 of section 383 of *The Insurance Act* and have been held at least six months from the date of the initial exempt trade or the date the issuer became a reporting issuer, whichever is the later, or
  - (iii) such securities are listed and posted for trading on a stock exchange recognized for this purpose by the Commission or are bonds, debentures or other evidences of indebtedness issued or guaranteed by the reporting issuer whose securities are so listed, and have been held at least one year from the date of the initial exempt trade or the date the issuer became a reporting issuer, whichever is later, or
  - (iv) such securities have been held at least eighteen months from the date of the initial exempt trade or the date the issuer became a reporting issuer, whichever is later; and

- (c) the vendor files a report within ten days prepared and executed in accordance with the regulations,

provided that no unusual effort is made to prepare the market or to create a demand for such securities and no extraordinary commission or consideration is paid in respect of such trade.

Idem

(5) The first trade in securities acquired under an exemption contained in clause *f*, *g*, *h*, *i* or *l* of subsection 1, other than a further trade exempted by subsection 1, is a distribution unless,

- (a) the issuer of the securities is a reporting issuer and has been a reporting issuer for at least twelve months and is not in default of any requirement of this Act or the regulations;
- (b) the issuer has made disclosure of its exempt trade; and
- (c) no unusual effort is made to prepare the market or to create a demand for the securities and no extraordinary commission or consideration is paid in respect of such trade.

Idem

(6) The first trade in securities purchased under an exemption contained in clause *o* of subsection 1, other than a further trade exempted by subsection 1, is a distribution.

Prospectus  
not  
required

(7) Sections 54 and 63 do not apply to a distribution within the meaning of subparagraph iii of paragraph 12 of subsection 1 of section 1 or by a lender, pledgee, mortgagee or other incumbrancer for the purpose of liquidating a *bona fide* debt by selling or offering for sale a security pledged, mortgaged or otherwise encumbered in good faith as collateral for the debt in accordance with clause *e* of subsection 1, if,

- (a) the distribution is exempted by subsection 1 of this section; or
- (b) the issuer of the security is a reporting issuer and has been a reporting issuer for at least eighteen months and is not in default of any requirement of this Act or the regulations and the seller,
  - (i) files with the Commission and any stock exchange recognized by the Commission for this purpose on which the securities are listed at least seven days and not more than fourteen days prior to the proposed trade,

- a. a notice of intention to sell in the form prescribed by the regulations disclosing particulars of the control position known to him, the number of securities to be sold and the method of distribution, and
- b. a declaration signed by each seller as at a date not more than twenty-four hours prior to its filing and prepared and executed in accordance with the regulations and certified as follows:

“The seller for whose account the securities to which this certificate relates are to be sold hereby represents that he has no knowledge of any material change which has occurred in the affairs of the issuer of the securities which has not been generally disclosed and reported to the Commission, nor has he any knowledge of any other material adverse information in regard to the current and prospective operations of the issuer which have not been generally disclosed”,

and,

- (ii) files within three days after the completion of any trade a report of the trade in the form prescribed under Part XX,

provided that the notice required to be filed under sub-subclause a of subclause i and the declaration required to be filed under sub-subclause b of subclause i shall be renewed and filed at the end of sixty days after the original date of filing and thereafter at the end of each twenty-eight day period so long as any of the securities specified under the original notice have not been sold or until notice has been filed that the securities so specified or any part thereof are no longer for sale; and

- (c) no unusual effort is made to prepare the market or to create a demand for the securities and no extraordinary commission or other consideration is paid in respect of such trade. *New.*

(8) Subject to subsection 10, for the purpose of determining whether an issuer is a reporting issuer and, if so, whether

Certificate re  
reporting  
issuer



the reporting issuer is not in default of any requirement of this Act or the regulations, the seller is entitled to rely on a certificate issued for this purpose in accordance with section 133.

List re  
defaulting  
reporting  
issuers

(9) Subject to subsection 10, for the purpose of determining whether a reporting issuer is not in default of any requirement of this Act or the regulations, the seller is entitled to rely on a list of defaulting reporting issuers which shall be maintained by the Commission for public inspection in its offices during its normal business hours.

Exception

(10) No person or company who knows or ought reasonably to know that a reporting issuer is in default may rely on the certificate or on the list. *New.*

Prospectus  
not  
required

**74.—(1)** Sections 54 and 63 do not apply to a distribution of securities,

- (a) referred to in subsection 2 of section 35 excepting paragraphs 16 and 17 thereof;
- (b) that are listed and posted for trading on any stock exchange recognized for the purpose of this section by the Commission where such securities are distributed through the facilities of such stock exchange pursuant to the rules of such stock exchange and the requirements of the Commission, provided that a statement of material facts, which shall comply as to form and content with the regulations, is filed with and is accepted for filing by such stock exchange and the Commission;
- (c) that are options to sell or purchase securities known as puts and calls or any combination thereof which provide that the holder thereof may sell to or purchase from the writer of the option a specified amount of securities at a specific price, on or prior to a specified date or the occurrence of a specified event, provided,
  - (i) the option has been written by a member of an exchange recognized by the Commission for this purpose or the performance under the option is guaranteed by a member of an exchange recognized by the Commission for this purpose,
  - (ii) the securities that are the subject of the option are listed and posted for trading on an exchange

recognized by the Commission for this purpose, and

(iii) the option is in the form from time to time prescribed by the regulations; or

(d) that are exempted by the regulations.

(2) Sections 72 and 125 apply *mutatis mutandis* to a distribution under clause *b* of subsection 1 as if sections 54 and 63 were applicable thereto, and the statement of material facts referred to in clause *b* of subsection 1 shall be deemed conclusively to be a prospectus for the purposes of sections 72 and 125. *New.*

Application  
of ss. 72 and  
125

**75.**—(1) The Commission may, upon the application of an interested person or company, rule that an intended trade is not subject to section 24 or 54 where it is satisfied that to do so would not be prejudicial to the public interest, and may impose such terms and conditions as are deemed necessary. 1971, c. 31, s. 14, *part, amended.*

Order  
exempting  
from  
registration  
a prospectus

(2) Where doubt exists whether a distribution of any security has been concluded or is currently in progress, the Commission may determine the question and rule accordingly.

Determina-  
tion of  
whether  
distribution  
has ceased

(3) A decision of the Commission under this section is final and there is no appeal therefrom. 1971, c. 31, s. 14, *part.*

Ruling  
final

## PART XVII

### CONTINUOUS DISCLOSURE

**76.**—(1) Subject to subsection 3, where a material change occurs in the affairs of a reporting issuer, it shall forthwith issue and file a press release authorized by a senior officer disclosing the nature and substance of such change.

Publication  
of material  
change

(2) The reporting issuer shall file a report of such change in accordance with the regulations as soon as practicable and in any event within ten days of the date on which the change occurs.

Report of  
material  
change

(3) Where in the opinion of the reporting issuer, the disclosure required by subsections 1 and 2 would be unduly detrimental to the interests of the reporting issuer, it shall forthwith deliver to the Commission the report required under

*Idem*

subsection 2 marked "confidential" together with written reasons for non-disclosure.

Idem

(4) Where a report has been delivered to the Commission under subsection 3, the reporting issuer shall advise the Commission in writing where it believes the report should continue to remain confidential within ten days of the date of delivery of the initial report and every ten days thereafter until the material change is generally disclosed. *New.*

Trading  
where  
undisclosed  
change

**77.** No person or company shall purchase or sell securities of a reporting issuer with knowledge of a material change in the affairs of such issuer that he or it knew or reasonably ought to have known had not been generally disclosed or inform another person or company about such material change other than in the necessary course of business before it has been so disclosed. *New.*

Interim  
financial  
statement

**78.—(1)** Every reporting issuer that is not a mutual fund shall file within sixty days of the date to which it is made up an interim financial statement,

- (a) for the three-month period that commenced on the date of incorporation, organization or continuation, as the case may be, and for each of the two subsequent three-month periods during its first financial year, if the reporting issuer has not completed a financial year; or
- (b) for the three-month period of the current financial year that commenced immediately following the last financial year and for each of the two subsequent three-month periods during the current financial year, including a comparative statement for the corresponding three-month period in the last financial year, if the reporting issuer has completed a financial year,

made up and certified as required by the regulations and in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period, if any. R.S.O. 1970, c. 426, s. 130 (1), *amended.*

Idem

(2) Every reporting issuer that is a mutual fund shall file within sixty days of the date to which it is made up an interim financial statement,

- (a) for the six-month period that commenced on the date of incorporation, organization or continuation, if the reporting issuer has not completed a financial year; or

- (b) for the six-month period that commenced immediately after the last financial year, if the reporting issuer has completed a financial year,

made up and certified by the regulations and in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period, if any. *New.*

**79.**—(1) Every reporting issuer that is not a mutual fund shall file annually within 140 days from the end of its last financial year comparative financial statements relating separately to, Comparative financial statements

- (a) the period that commenced on the date of incorporation, organization or continuation, as the case may be, and ended as of the close of the first financial year or, if the reporting issuer has completed a financial year, the last financial year, as the case may be; and

- (b) the period covered by the financial year next preceding the last financial year, if any,

made up and certified as required by the regulations and in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period, if any. R.S.O. 1970, c. 426, s. 120 (1), *amended.*

(2) Every reporting issuer that is a mutual fund shall file annually within 140 days from the end of its last financial year financial statements relating to the period that commenced on the date of incorporation, organization or continuation and ended as of the close of its first financial year or, if the reporting issuer has completed a financial year, the last financial year made up and certified as required by the regulations and in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period. *New.* Annual financial statements

(3) Every financial statement referred to in subsections 1 and 2 shall be accompanied by a report of the auditor of the reporting issuer prepared in accordance with the regulations. R.S.O. 1970, c. 426, s. 119 (2), *amended.* Auditor's report

(4) For the purposes of this Part, "auditor", where used in relation to the reporting issuer, includes the auditor of the reporting issuer and any other independent public accountant. *New.* "auditor" defined



Auditor's  
examination

**80.** The auditor of a reporting issuer shall make such examinations as will enable him to make the report required by subsection 3 of section 79. R.S.O. 1970, c. 426, s. 119 (1).

Relief  
against  
certain  
require-  
ment

**81.** Upon the application of a reporting issuer, the Commission may, where in the opinion of the Commission to do so would not be prejudicial to the public interest, make an order on such terms and conditions as the Commission may impose,

- (a) permitting the omission from the financial statements required to be filed under this Part of,
  - (i) comparative financial statements for particular periods of time,
  - (ii) sales or gross operating revenue where the Commission is satisfied that the disclosure of such information would be unduly detrimental to the interests of the reporting issuer, or
  - (iii) basic earnings per share or fully diluted earnings per share;
- (b) where, in the opinion of the Commission, the reporting issuer is unable to comply with the requirements of the regulations relating to the preparation of a statement of changes in financial position required under this Part and the regulations, permitting the reporting issuer to file in lieu thereof an alternative financial statement containing such information, if any, as the Commission considers appropriate;
- (c) exempting, in whole or in part, the reporting issuer from a requirement of this Part or the regulations relating to a requirement of this Part,
  - (i) if such requirement conflicts with a requirement of the laws of the jurisdiction under which the reporting issuer is incorporated, organized or continued, or
  - (ii) if otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing. R.S.O. 1970, c. 426, s. 132 (1), *amended*.

Filing of  
information  
circular

**82.—(1)** Where the management of a reporting issuer is required to send an information circular under clause *a* of

subsection 1 of section 87, the reporting issuer shall forthwith file a copy of such information circular certified in accordance with the regulations.

(2) In any case where subsection 1 is not applicable, <sup>Idem</sup> the reporting issuer shall file annually within 140 days from the end of its last financial year a report prepared and certified in accordance with the regulations. *New.*

**83.** Where the laws of the jurisdiction in which the reporting issuer was incorporated, organized or continued require the reporting issuer to file substantially the same information in that jurisdiction as is required by this Part, the reporting issuer may comply with the filing requirements of this Part by filing copies of the press release, timely disclosure report, information circular, report or financial statements and auditor's report, as the case may be, required by that jurisdiction provided such releases, reports, circulars or statements are manually signed or certified in accordance with the regulations. *New.* <sup>Filing of documents filed in another jurisdiction</sup>

**84.** Upon the application of a reporting issuer that has fewer than fifteen security holders whose latest address as shown on the books of the reporting issuer is in Ontario, the Commission may order, subject to such terms and conditions as it may impose, that the reporting issuer shall be deemed to have ceased to be a reporting issuer where it is satisfied that to do so would not be prejudicial to the public interest. *New.* <sup>Order relieving small reporting issuer</sup>

## PART XVIII

### PROXIES AND PROXY SOLICITATION

**85.** In this Part,

<sup>Interpre-</sup>  
<sup>tation</sup>

- (a) "information circular" means an information circular prepared in accordance with the regulations;
- (b) "solicit" and "solicitation" include,
  - (i) any request for a proxy whether or not accompanied by or included in a form of proxy,
  - (ii) any request to execute or not to execute a form of proxy or to revoke a proxy,

- (iii) the sending or delivery of a form of proxy or other communication to a security holder under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy,
- (iv) the sending or delivery of a form of proxy to a security holder under section 86,

but do not include,

- (v) the sending or delivery of a form of proxy to a security holder in response to an unsolicited request made by him or on his behalf, or
- (vi) the performance by any person or company of ministerial acts or professional services on behalf of a person or company soliciting a proxy. R.S.O. 1970, c. 426, s. 101 (b, c), *amended*.

Mandatory  
solicitation  
of proxies

**86.** Subject to section 89, if the management of a reporting issuer gives or intends to give to holders of its voting securities notice of a meeting, the management shall, concurrently with or prior to giving such notice to such security holders whose latest address as shown on the books of the reporting issuer is in Ontario, send by prepaid mail to each such security holder who is entitled to vote at such meeting, at his latest address as shown on the books of the reporting issuer, a form of proxy for use at such meeting that complies with the regulations. R.S.O. 1970, c. 426, s. 102 (1), *amended*.

Information  
circular

**87.—(1)** Subject to subsection 2 and section 89, no person or company shall solicit proxies from holders of its voting securities whose latest address as shown on the books of the reporting issuer is in Ontario unless,

- (a) in the case of a solicitation by or on behalf of the management of a reporting issuer, an information circular, either as an appendix to or as a separate document accompanying the notice of the meeting, is sent by prepaid mail to each such security holder of the reporting issuer whose proxy is solicited at his latest address as shown on the books of the reporting issuer; or
- (b) in the case of any other solicitation, the person or company making the solicitation, concurrently with or prior thereto, delivers or sends an in-

formation circular to each such security holder whose proxy is solicited.

(2) Subsection 1 does not apply to,

Application  
of subs. 1

- (a) any solicitation, otherwise than by or on behalf of the management of a reporting issuer, where the total number of security holders whose proxies are solicited is not more than fifteen, two or more persons or companies who are the joint registered owners of one or more securities being counted as one security holder;
- (b) any solicitation by a person or company made under section 49; or
- (c) any solicitation by a person or company in respect of securities of which he is the beneficial owner.

R.S.O. 1970, c. 426, s. 103 (1, 2), *amended*.

**88.** The chairman at a meeting has the right not to conduct a vote by way of ballot on any matter or group of matters in connection with which the form of proxy has provided a means whereby the person or company whose proxy is solicited may specify how such person or company wishes the securities registered in his name to be voted unless,

Voting  
where  
proxies

- (a) a poll is demanded by any security holder present at the meeting in person or represented thereat by proxy; or
- (b) proxies requiring that the securities represented thereby be voted against what would otherwise be the decision of the meeting in relation to such matters or group of matters total more than 5 per cent of all the voting rights attached to all the securities entitled to be voted and be represented at the meeting. R.S.O. 1970, c. 426, s. 106, *amended*.

**89.**—(1) Where a reporting issuer is complying with the requirements of the laws of the jurisdiction under which it is incorporated, organized or continued and the requirements are substantially similar to the requirements of this Part, the requirements of this Part do not apply.

Compliance  
with laws  
of other  
jurisdiction

(2) Subject to subsection 1, upon the application of any interested person or company, the Commission may,

Exemption  
by order



- (a) if a requirement of this Part conflicts with a requirement of the laws of the jurisdiction under which the reporting issuer is incorporated, organized or continued; or
- (b) if otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing,

make an order on such terms and conditions as seem to the Commission just and expedient exempting, in whole or in part, a person or company from the requirements of this Part. *New.*

## PART XIX

### TAKE-OVER BIDS

Interpre-  
tation

#### 90. In this Part,

- (a) "day" means a clear day and a period of days shall be deemed to commence the day following the event which began the period and shall be deemed to terminate on midnight of the last day of the period except that if the last day of the period falls on a Sunday or holiday the period shall terminate on midnight of the day next following that is not a Sunday or holiday;
- (b) "directors' circular" means a directors' circular prepared in accordance with the regulations;
- (c) "exempt offer" means,
  - (i) purchases of voting securities of a company by a person or company through the facilities of a stock exchange or in the over-the-counter market whether or not the purchaser has, or will have, over 20 per cent of the outstanding voting securities of such company provided that such purchases do not exceed 5 per cent of the outstanding voting securities of such company in any one year, and
  - (ii) an offer to purchase shares in a private company;
- (d) "offeree" means a person or company to whom a take-over bid is made and whose latest address

as shown on the books of the offeree company is in Ontario;

- (e) "offeree company" means a company whose securities are the subject of a take-over bid;
- (f) "offeror" means a person or company other than an agent, who makes a take-over bid, and includes two or more persons or companies,
  - (i) whose take-over bids are made jointly or in concert, or
  - (ii) who intend to exercise jointly or in concert any voting rights attaching to the securities for which a take-over bid is made;
- (g) "offeror's presently-owned securities" means voting securities of an offeree company beneficially owned, directly or indirectly, on the date of a take-over bid by the offeror or an associate of the offeror;
- (h) "take-over bid" means an offer, other than an exempt offer, made to security holders the last address of any of whom as shown on the books of the offeree company is in Ontario to purchase, directly or indirectly, such number of voting securities of a company that, together with the offeror's presently-owned securities, will in the aggregate exceed 20 per cent of the outstanding voting securities of the company. R.S.O. 1970, c. 426, s. 81; 1971, c. 31, s. 22, *amended*.

**91.** The following provisions apply to every take-over bid: Require-  
ments for  
take-over  
bid

1. The take-over bid shall be made to all security holders whose last address as shown on the books of the offeree company is in Ontario.
2. The period of time in which securities may be deposited pursuant to a take-over bid shall not be less than twenty-one days from the date thereof.
3. Any securities deposited pursuant to a take-over bid shall not be taken up and paid for by the offeror until the expiration of ten days from its date.

4. Any securities deposited pursuant to a take-over bid may be withdrawn by an offeree at any time until the expiration of ten days from its date.
5. Notice of withdrawal of any securities pursuant to paragraph 4 shall be made in writing, including telegraphic communication, by the offeree or his agent and must be actually received by the depositary.
6. Where a take-over bid is made for less than all the voting securities owned by offerees, securities deposited pursuant thereto shall not be taken up and paid for by an offeror until the expiration of twenty-one days from its date.
7. Where a take-over bid is made for less than all the voting securities owned by offerees, the period of time within which securities may be deposited pursuant to the take-over bid, or any extension thereof, shall not exceed thirty-five days from the date of the take-over bid.
8. Where a take-over bid is made for less than all the voting securities owned by offerees, securities deposited pursuant to the take-over bid shall be taken up and paid for, if all the terms and conditions thereof not waived by the offeror have been complied with, within fourteen days after the last day within which securities may be deposited thereto.
9. Where a take-over bid is made for less than all the voting securities owned by offerees and where a greater number of securities is deposited pursuant thereto than the offeror is bound or willing to take up and pay for, the securities taken up by the offeror shall be taken up as nearly as may be *pro rata*, disregarding fractions, according to the number of securities deposited by each offeree.
10. Where the laws applicable to the company provide for a right of appraisal or acquisition, the offeror shall advise the offeree of his rights of appraisal and whether the offeror intends exercising any right of acquisition he may have.
11. Where the offeror intends to purchase securities in the market, his intention shall be set out in the take-over bid circular and, where the take-over bid is made for less than all of the voting securities owned by the offeree, he shall not reduce

the number of securities he is bound or willing to take up under paragraph 9 by the number of securities purchased in the market.

12. The offeror shall not attach any conditions to the offer except the right to withdraw the offer if,

- (a) the offerees fail to tender the minimum number of securities the offeror is bound and willing to take up;
- (b) any undisclosed action prior to the date of the offer, or any action subsequent to such date, of the offeree company or of the directors or senior officers of the offeree company effects a material change in the affairs of such company; or
- (c) the required approval of a governmental or regulatory authority is not obtained prior to the expiration of the offer.

13. Where the take-over bid is made for all of the voting securities owned by offerees, the offeror shall, at the expiration of thirty-five days from the making of the offer, take up and pay for the securities tendered at that time or abandon his offer.

14. Where the take-over bid is subject to the approval of a governmental or regulatory authority, the time within which the offeree is bound to take up and make payment for the securities under paragraphs 9 and 13 may be extended for a period not exceeding an additional sixty days. R.S.O. 1970, c. 426, s. 82; 1971, c. 31, s. 23, *amended*.

**92.**—(1) Where a take-over bid has been varied by Notice of variation in take-over bid changing any of its terms, every person or company that has been sent the take-over bid circular shall be sent notice of the variation and the date of the take-over bid shall, for the purposes of section 91, be deemed to be the date of the variation.

(2) A notice of variation shall advise the offeree of his idem rights under paragraph 4 of section 91. *New*.

(3) Where the terms of a take-over bid are varied before the expiration thereof by increasing the consideration offered for the voting securities of an offeree company, the offeror shall pay such increased consideration to each offeree whose Variation of terms of take-over bid



securities are taken up and paid for pursuant to the take-over bid whether or not such securities have been taken up by the offeror before the variation of the take-over bid.

**Idem**

(4) Where a take-over bid for all the voting securities owned by offerees is converted, by amendments or otherwise, to a bid for less than all the voting securities owned by offerees, the take-over bid shall be deemed conclusively to be for less than all the voting securities owned by offerees. R.S.O. 1970, c. 426, s. 84, *amended*.

**Sending  
by mail**

**93.** A take-over bid or a varied take-over bid shall be sent by prepaid mail to the offerees and shall be deemed conclusively to have been dated as of the date on which it was mailed. R.S.O. 1970, c. 426, s. 83, *amended*.

**Consideration  
in cash**

**94.** Where a take-over bid provides that the consideration for the securities deposited pursuant thereto is to be paid in cash or partly in cash, the offeror shall make adequate arrangements to ensure that the required funds are available to effect payment in full for all securities owned by offerees that the offeror has offered to purchase pursuant to the take-over bid. R.S.O. 1970, c. 426, s. 85.

**Circular**

**95.**—(1) A take-over bid circular shall form part of or accompany a take-over bid.

**Content**

(2) Every take-over bid circular shall be in the form and shall contain the information prescribed by this Part and the regulations.

**Consideration  
in securities**

(3) Where a take-over bid provides that the consideration for the securities of the offeree company is to be, in whole or in part, securities of an issuer, the take-over bid circular shall contain the additional information prescribed by the regulations. R.S.O. 1970, c. 426, s. 86, *amended*.

**Directors'  
circular**

**96.**—(1) The board of directors of an offeree company shall send a directors' circular to each offeree not later than seven days from the date of the take-over bid prepared in accordance with the regulations. R.S.O. 1970, c. 426, s. 87 (1), *amended*.

**Recom-  
mendation  
by board**

(2) The board of directors may include in a directors' circular a recommendation to accept or to reject a take-over bid if it sees fit to do so. *New*.

**Recom-  
mendation  
by individual  
director**

(3) An individual director or officer may recommend to the offerees acceptance or rejection of the take-over

bid made to such offerees if the director or officer sends to each offeree with his communication a circular prepared in accordance with the regulations. R.S.O. 1970, c. 426, s. 87 (4), *amended*.

(4) Where a board of directors is considering recommending acceptance or rejection of a take-over bid, it shall, at the time of sending a director's circular, advise the offerees of this fact and shall advise them not to tender their securities until further communication is received from the directors. R.S.O. 1970, c. 426, s. 87 (2), *amended*. Advising of consideration

(5) Where the board of directors sends a communication under subsection 4, it shall communicate the recommendation or the decision not to make a recommendation to the offerees at least seven days prior to the expiry of the offer. R.S.O. 1970, c. 426, s. 87 (3), *amended*. Advising of decision of directors

(6) All communications required or permitted by this section shall be sent to each offeree by prepaid mail to his latest address as shown on the books of the offeree company. R.S.O. 1970, c. 426, s. 87 (5). Service

**97.**—(1) Where a take-over bid is made by or on behalf of an issuer, the contents of the take-over bid circular shall be approved and the delivery thereof authorized by the directors of the issuer. R.S.O. 1970, c. 426, s. 89 (1), *amended*. Approval of circulars

(2) Where a take-over bid is made by or on behalf of an issuer, the take-over bid circular shall contain a statement that the contents thereof have been approved and the delivery thereof authorized by the directors of the issuer. R.S.O. 1970, c. 426, s. 93. Idem

(3) The contents of a directors' circular shall be approved and the delivery thereof authorized by the directors of the offeree company. R.S.O. 1970, c. 426, s. 89 (2), *amended*. Idem

**98.** Upon an application by a person or company, the Commission may exempt, subject to such terms and conditions as it may impose, the person or company from any requirement of this Part where in its opinion it would not be prejudicial to the public interest to do so. R.S.O. 1970, c. 426, s. 90, *amended*. Deeming offers exempt

**99.** The identity of the offeror shall be disclosed in a take-over bid circular. 1971, c. 31, s. 27, *amended*. Naming of offeror

## PART XX

## INSIDER TRADING AND SELF-DEALING

Interpre-  
tation**100.**—(1) In this Part,

- (a) “mutual fund” means a mutual fund that is a reporting issuer;
- (b) “related mutual funds” includes more than one mutual fund under common management; and
- (c) “related person or company” in relation to a mutual fund means a person in whom, or a company in which, the mutual fund, its management company and its distribution company are prohibited by the provisions of this Part from making any investment.

Idem

(2) For the purpose of this Part,

- (a) any issuer in which a mutual fund holds in excess of 10 per cent of the voting securities or in which the mutual fund and related mutual funds hold in excess of 20 per cent of the voting securities shall be deemed to be a related person or company of that mutual fund or of each of those mutual funds;
- (b) the acquisition or disposition by an insider of a put, call or other transferable option with respect to a security shall be deemed a change in the beneficial ownership of the security to which such put, call or other transferable option relates; and
- (c) for the purpose of reporting under section 101 or 102, ownership shall be deemed to pass at such time as an offer to sell is accepted by the purchaser or his agent or an offer to buy is accepted by the vendor or his agent. R.S.O. 1970, c. 426, s. 109, *amended*.

Report

**101.**—(1) A person or company that becomes an insider of a reporting issuer, other than a mutual fund, shall, within ten days after the end of the month in which he becomes an insider, file a report as of the day on which he became an insider disclosing whether or not he has any direct or indirect beneficial ownership of or control or direction over securities of the reporting issuer as may be required by the regulations.

(2) A person or company that has filed or is required <sup>Idem</sup> to file a report under this section or any predecessor thereof and whose direct or indirect beneficial ownership of or control or direction over securities of the reporting issuer changes from that shown or required to be shown in such report or in the latest report filed by him under this section or any predecessor thereof shall, within ten days following the end of the month in which such change takes place, if he was an insider of the reporting issuer at any time during such month, file a report of his direct or indirect beneficial ownership of or his control or direction over securities of the reporting issuer at the end of the month and the change or changes therein that occurred during said month giving such details of each transaction as may be required by the regulations. R.S.O. 1970, c. 426, s. 110 (1, 2), *amended*.

**102.**—(1) Where a person or company becomes the <sup>Report of offeror</sup> beneficial owner, directly or indirectly, of voting securities of a reporting issuer carrying 20 per cent or more of the voting rights attached to all voting securities for the time being outstanding, through purchases effected through an exempt offer, as defined in Part XIX, such person or company shall file a report as of the day on which he acquired such ownership within three days of acquiring such 20 per cent ownership.

(2) A person or company that is the beneficial owner, <sup>Idem</sup> directly or indirectly, of voting securities of a reporting issuer carrying 20 per cent or more of the voting rights attached to all voting securities for the time being outstanding shall, within three days of purchasing further voting securities carrying an additional 5 per cent of the voting rights, file a report as of the day on which he acquired an additional 5 per cent of the voting rights and thereafter each time he acquires a further 5 per cent.

(3) Where the facts required to be reported by this section are identical to those required under section 101, a separate report under section 101 is not required. 1971, c. 31, s. 33, *amended*. <sup>Idem</sup>

**103.** No insider of a reporting issuer shall transfer or <sup>Report of transfer by insider</sup> cause to be transferred any securities of the reporting issuer into the name of an agent, nominee or custodian without delivering to the Commission a report of such transfer in accordance with the regulations except for a transfer for the purpose of giving collateral for a *bona fide* debt. *New.*



Report of  
transfer  
by insider

**104.** Where voting securities are registered in the name of a person or company other than the beneficial owner and the person or company knows or ought to know after reasonable inquiry that they are beneficially owned by an insider he shall file a report in accordance with the regulations except where the transfer is for the purpose of giving collateral for a *bona fide* debt and the insider has reported and remains the beneficial owner of the securities. *New.*

Interpre-  
tation

**105.** For the purposes of sections 106, 107, 108, 109, 110 and 111,

- (a) "investment" means a purchase of any security of any class of securities of an issuer including bonds, debentures, notes, or other evidences of indebtedness thereof, and a loan to persons or companies but does not include an advance or loan, whether secured or unsecured, that is made by a mutual fund, its management company or its distribution company that is merely ancillary to the main business of the mutual fund, its management company or its distribution company;
- (b) a person or company or a group of persons or companies has a significant interest in an issuer, if,
  - (i) in the case of a person or company, he or it, as the case may be, owns beneficially, either directly or indirectly, more than 10 per cent, or
  - (ii) in the case of a group of persons or companies, they own beneficially, either individually or together and either directly or indirectly, more than 50 per cent,

of the outstanding shares or units of the issuer;

- (c) a person or company or a group of persons or companies is a substantial security holder of an issuer if that person or company or group of persons or companies owns beneficially, either individually or together or directly or indirectly, voting securities to which are attached more than 20 per cent of the voting rights attached to all the voting securities of the issuer for the time being outstanding, but in computing the percentage of voting rights attached to voting securities owned by an underwriter, there shall be excluded

any voting securities acquired by him as underwriter in a distribution of such securities but such exclusion ceases to have effect on completion or cessation of the distribution by him;

- (d) where a person or company or group of persons or companies owns beneficially, directly or indirectly, or pursuant to this clause is deemed to own beneficially, voting securities of an issuer, that person or company or group of persons or companies shall be deemed to own beneficially a proportion of voting securities of any other issuer that are owned beneficially, directly or indirectly, by the first mentioned issuer, which proportion shall equal the proportion of the voting securities of the first mentioned issuer that are owned beneficially, directly or indirectly, or that pursuant to this clause are deemed to be owned beneficially, by that person or company or group of persons or companies. *New.*

**106.**—(1) No mutual fund shall knowingly make an investment by way of loan to, Loans of mutual funds

- (a) any officer or director of the mutual fund, its management company or distribution company or an associate of any of them;
- (b) any individual, where the individual or an associate of the individual is a substantial security holder of the mutual fund, its management company or distribution company.

(2) No management company or distribution company of a mutual fund shall knowingly make an investment by way of loan to, Loans of management or distribution companies

- (a) any officer or director of the mutual fund or an associate of any of them; or
- (b) any individual, where the individual or associate of the individual is a substantial security holder of the mutual fund.

(3) No mutual fund, its management company or distribution company shall knowingly make an investment, Investments of mutual funds, etc.

- (a) in any person or company that is a substantial security holder of the mutual fund, its management company or distribution company;

(b) in any person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial security holder; or

(c) in an issuer in which,

(i) any officer or director of the mutual fund, its management company or distribution company or an associate of any of them, or

(ii) any person or company who is a substantial security holder of the mutual fund, its management company or its distribution company,

has a significant interest.

Divesting of  
prohibited  
loans and  
investments

(4) No mutual fund or its management company or its distribution company shall knowingly hold an investment made after the coming into force of this Act that is an investment described in this section. *New.*

Limitation  
on mutual  
fund  
investment

**107.—**(1) Subject to subsection 2, no mutual fund shall purchase securities of any class of an issuer if after the purchase,

(a) the holdings of the mutual fund exceed 10 per cent of the outstanding securities of that class by number or the holdings of the mutual fund and of related mutual funds exceed 20 per cent of the outstanding securities of that class by number or, in the case of debt securities maturing more than one year from the date of issue, holdings of the mutual fund exceed 10 per cent of the principal amount of the total outstanding debt securities of the issuer or the holdings of the mutual fund and of related mutual funds exceed 20 per cent out of the principal amount of the total outstanding debt securities of the issuer; or

(b) the holdings of the mutual fund of all of the securities of the issuer exceed 10 per cent by value of the net asset value of such mutual fund.

Exception

(2) A mutual fund may purchase securities in excess of the limits in subsection 1 if the security is,

(a) a mortgage upon real property, other than a mortgage contained in or secured by a bond, debenture or similar obligation in a trust deed or other instrument to secure bonds or debentures or similar obligations; or

- (b) negotiable promissory notes or other money market instruments maturing not more than six months from the date of issue. *New.*

**108.** No mutual fund or its management company or its distribution company shall knowingly enter into any contract or other arrangement that results in its being directly or indirectly liable or contingently liable in respect of any investment by way of loan to, or other investment in, a person or company to whom it is by section 106 prohibited from making a loan or in which it is prohibited from making any other investment, and for the purpose of section 106 any such contract or other arrangement shall be deemed to be a loan or an investment, as the case may be. *New.* Indirect investment

**109.** Upon an application of an interested person or company, the Commission may, where it is satisfied, Relieving orders

- (a) that a class of investment or a particular investment represents the business judgment of responsible persons uninfluenced by considerations other than the best interests of a mutual fund; or
- (b) that a particular investment is in fact in the best interests of a mutual fund,

order, subject to such terms and conditions as it may impose, that section 106, 107 or 108 does not apply to the class of investment, particular investment, contract or other arrangement, as the case may be. *New.*

**110.** Notwithstanding clause *d* of section 105, a mutual fund, its management company or its distribution company is not prohibited from making an investment in an issuer only because a person or company or a group of persons or companies that owns beneficially, directly or indirectly, or is deemed to own beneficially, voting securities of the mutual fund or its management company or its distribution company is by reason thereof deemed to own beneficially voting securities of the issuer. *New.* Exception to s. 105 (d)

**111.—**(1) No mutual fund shall make any investment in consequence of which a related person or company of the mutual fund will receive any fee or other compensation except fees paid pursuant to a contract which is disclosed in any preliminary prospectus or prospectus, or any amendment to either of them, that is filed by the mutual fund and is accepted by the Director. Fees on investment



Relieving  
orders

(2) The Commission may, upon the application of a mutual fund and where it is satisfied that it would not be prejudicial to the public interest to do so, order, subject to such terms and conditions as it may impose, that subsection 1 does not apply to the mutual fund. *New.*

Standard of  
care for  
management  
of mutual  
fund

**112.**—(1) Every person or company responsible for the management of a mutual fund shall exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the mutual fund, and in connection therewith shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.

Idem

(2) For the purposes of subsection 1, a person or company is responsible for the management of a mutual fund if he has legal power or right to control the mutual fund or if in fact he is able to do so. *New.*

Filing by  
management  
companies

**113.**—(1) Every management company shall file a report prepared in accordance with the regulations of,

- (a) every transaction of purchase or sale of securities between the mutual fund and any related person or company;
- (b) every loan received by such mutual fund from, or made by such mutual fund to, any of its related persons or companies;
- (c) every purchase or sale effected by such mutual fund through any related person or company with respect to which the related person or company received a fee either from the mutual fund or from the other party to the transaction or from both; and
- (d) any transaction in which, by arrangement other than an arrangement relating to insider trading in portfolio securities, the mutual fund is a joint participant with one or more of its related persons or companies,

in respect of each mutual fund to which it provides services or advice, within thirty days after the end of the month in which it occurs.

Relieving  
orders

(2) The Commission may, upon the application of the management company of a mutual fund and where it is of the opinion that it would not be prejudicial to the public interest to do so, order, subject to such terms and conditions

as it may impose, that subsection 1 does not apply to any transaction or class of transactions. *New.*

**114.** No person or company who has access to information concerning the investment program of a mutual fund shall purchase or sell securities of an issuer for his or its account where the portfolio securities of the mutual fund include securities of that issuer and where the information is used by the person or company for his or its direct benefit or advantage. *New.* Trades by  
mutual  
fund  
insiders

**115.** The Commission shall summarize in or as a part of a monthly periodical available to the public on payment of a reasonable fee the information contained in every report filed in compliance with this Part. R.S.O. 1970, c. 426, s. 111 (2). Publication  
of summaries  
of reports

**116.**—(1) Where the laws of the jurisdiction in which the reporting issuer is incorporated, organized or continued require substantially the same reports in that jurisdiction as are required by this Part, the filing requirements of this Part may be complied with by filing the reports required by the laws of such jurisdiction manually signed or certified in accordance with the regulations. *New.* Filing  
in other  
jurisdiction

(2) Subject to subsection 1, upon the application of an interested person or company, the Commission may, Exemptions  
by order of  
Commission

- (a) if a requirement of this Part conflicts with a requirement of the laws of the jurisdiction under which the reporting issuer is incorporated, organized or continued; or
- (b) if otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing,

make an order on such terms and conditions as seem to the Commission just and expedient, exempting in whole or in part, a person or company from the requirements of this Part. R.S.O. 1970, c. 426, s. 116 (1), *amended.*

## PART XXI

### ENFORCEMENT

**117.**—(1) Every person or company that, Offences,  
general

- (a) makes a statement in any material, evidence or information submitted or given under this Act or the regulations to the Commission, its representative, the Director or to any person appointed to make

an investigation or audit under this Act that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;

- (b) makes a statement in any application, release, report, preliminary prospectus, prospectus, return, financial statement, information circular, take-over bid circular or other document required to be filed or furnished under this Act or the regulations that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;
- (c) contravenes this Act or the regulations; or
- (d) fails to observe or to comply with any direction, decision, ruling, order or other requirement made under this Act or the regulations,

is guilty of an offence and on summary conviction is liable, in the case of a person, other than an individual, or company, to a fine of not more than \$25,000 and, in the case of an individual, to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

**Defence**

(2) No person or company is guilty of an offence under clause *a* or *b* of subsection 1 if he or it, as the case may be, did not know and in the exercise of reasonable diligence could not have known that the statement was a misrepresentation.

**Directors and officers**

(3) Where a company or a person other than an individual is guilty of an offence under subsection 1, every director or officer of such company or person who authorized, permitted, or acquiesced in such offence is also guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year. R.S.O. 1970, c. 426, s. 137 (1-3), *amended*.

**Consent of Minister**

**118.** No proceedings under section 117 shall be instituted except with the consent or under the direction of the Minister. R.S.O. 1970, c. 426, s. 138 (1).

**Information containing more than one offence**

**119.** An information in respect of any contravention of this Act may be for one or more offence, and no information, summons, warrant, conviction or other proceeding in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. R.S.O. 1970, c. 426, s. 139.

**120.**—(1) Where a provincial judge, magistrate or justice of another province or territory of Canada issues a warrant for the arrest of any person on a charge of contravening any provision of a statute of such province or territory similar to this Act, any provincial judge or justice of Ontario within whose jurisdiction that person is or is suspected to be, may, upon satisfactory proof of the handwriting of the provincial judge, magistrate or a justice who issued the warrant, make an endorsement thereon in the form prescribed by the regulations, and a warrant so endorsed is sufficient authority to the person bringing the warrant and to all other persons to whom it was originally directed and to all constables within the territorial jurisdiction of the provincial judge or justice so endorsing the warrant to execute it within that jurisdiction and to take the person arrested thereunder either out of or anywhere in Ontario and to rearrest such person anywhere in Ontario.

Execution of  
warrant  
issued in  
another  
province

(2) Any constable of Ontario or of any other province or territory of Canada who is passing through Ontario having in his custody a person arrested in another province or territory under a warrant endorsed under subsection 1 is entitled to hold, take and rearrest the accused anywhere in Ontario under such warrant without proof of the warrant or the endorsement thereof. R.S.O. 1970, c. 426, s. 149.

Prisoner  
in transit

**121.**—(1) Where it appears to the Commission that any person or company has failed to comply with or is violating any decision or any provision of this Act or the regulations, the Commission may, notwithstanding the imposition of any penalty in respect of such non-compliance or violation and in addition to any other rights it may have, apply to a judge of the High Court designated by the Chief Justice of the High Court for an order,

Order for  
compliance

- (a) directing such person or company to comply with such decision or provision or restraining such person or company from violating such decision or provision; and
- (b) directing the directors and senior officers of such person or company to cause such person or company to comply with or to cease violating any such decision or provision,

and upon the application the judge may make such order or such other order as he thinks fit.

(2) An appeal lies to the Supreme Court from an order made under subsection 1. R.S.O. 1970, c. 426, s. 143, *amended*.

Appeal



Order  
to cease  
trading

**122.**—(1) The Commission may, where in its opinion such action is in the public interest, order, subject to such terms and conditions as it may impose, that trading shall cease in respect of any securities for such period as is specified in the order. R.S.O. 1970, c. 426, s. 144 (1).

Idem

(2) The Commission may issue a cease trading order under subsection 1 notwithstanding the delivery of a report to it pursuant to subsection 3 of section 76. *New.*

Temporary  
order

(3) No order shall be made under subsection 1 or 2 without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event the Commission may make a temporary order, which shall not be for longer than fifteen days from the date of the making thereof, but such order may be extended for such period as the Commission considers necessary where satisfactory information is not provided to the Commission within the fifteen day period. R.S.O. 1970, c. 426, s. 144 (2), *amended.*

Commission's  
discretion to  
remove  
exemptions

**123.**—(1) The Commission may, where in its opinion such action is in the public interest, order, subject to such terms and conditions as it may impose, that any or all of the exemptions contained in sections 35, 73 and 74 do not apply to the person or company named in the order.

Temporary  
order and  
hearing

(2) No order shall be made under subsection 1 without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event a temporary order may be made which shall not be for longer than fifteen days from the date of the making thereof unless the hearing is commenced in which case the Commission may extend the order until the hearing is concluded.

Notice

(3) Notice of a temporary order made under subsection 2 shall be given forthwith together with the notice of the hearing under subsection 2 to every person or company that in the opinion of the Commission is directly affected thereby. R.S.O. 1970, c. 426, s. 19 (5-7), *amended.*

Limitation  
period

**124.**—(1) No proceedings under this Part shall be commenced in a court more than one year after the facts upon which the proceedings are based first came to the knowledge of the Commission.

Idem

(2) No proceedings under this Act shall be commenced before the Commission more than two years after the facts upon which the proceedings are based first came to the

knowledge of the Commission. R.S.O. 1970, c. 426, s. 138 (2, 3), *amended*.

## PART XXII

### CIVIL LIABILITY

**125.**—(1) Where a prospectus together with any amendment to the prospectus contains a misrepresentation, a purchaser who purchases a security offered thereby shall be deemed to have relied on such misrepresentation and has a right of action for rescission or damages against,

Liability  
for misrepresentation in  
prospectus

- (a) the issuer or selling security holder;
- (b) each underwriter of the securities who is required to sign the certificate required by section 60;
- (c) every director of the issuer at the time the prospectus or the amendment to the prospectus was filed;
- (d) every person or company whose consent has been filed pursuant to a requirement of the regulations but only with respect to statements or reports that have been made by them; and
- (e) every person or company that signed the prospectus or the amendment to the prospectus other than the persons or companies included in clauses *a* to *d*.

(2) No person or company is liable under subsection 1 if <sup>Defence</sup> he proves that the purchaser purchased the securities with knowledge of the misrepresentation.

(3) No person or company, other than the issuer or selling <sup>Idem</sup> security holder, is liable under subsection 1 if he proves,

- (a) that the prospectus or the amendment to the prospectus was filed without his knowledge or consent, and that, on becoming aware of its filing, he forthwith gave reasonable general notice that it was so filed;
- (b) that, after the issue of a receipt for the prospectus and before the purchase of the securities by such purchaser, on becoming aware of any misrepresentation in the prospectus or an amendment to the prospectus he withdrew his consent thereto and gave

reasonable general notice of such withdrawal and the reason therefor;

- (c) that, with respect to any part of the prospectus or the amendment to the prospectus purporting to be made on the authority of an expert or purporting to be a copy of an extract of a report or evaluation of an expert, he had no reasonable grounds to believe and did not believe that there had been a misrepresentation or that such part of the prospectus or the amendment to the prospectus did not fairly represent the statement of the expert or was not a fair copy of the extract from the report or evaluation of the expert; or
- (d) that, with respect to any part of the prospectus or the amendment to the prospectus purporting to be made on his own authority as an expert or purporting to be a copy of an extract from his own report or evaluation as an expert, he had, after reasonable investigation, reasonable grounds to believe and did believe that there had been no misrepresentation or that such part of the prospectus or the amendment to the prospectus did not fairly represent his statement as an expert and on becoming aware of such use of his statement or report or evaluation he forthwith advised the Commission and gave reasonable general notice that such use had been made and that he would not be responsible for that part of the prospectus or the amendment to the prospectus.

Idem

(4) No person or company, other than the issuer, is liable under subsection 1 if he proves that, with respect to any part of the prospectus or the amendment to the prospectus not purporting to be made on the authority of an expert and not purporting to be a copy of an extract of a report or evaluation of an expert, he had, after reasonable investigation, reasonable grounds to believe and did believe that there was no misrepresentation.

Idem

(5) In determining what constitutes reasonable investigation or reasonable grounds for belief for the purposes of subsection 4, the standard of reasonableness shall be that required of a prudent man in the circumstances of the particular case.

Limitation  
re under-  
writers

(6) No underwriter is liable for more than the total public offering price represented by the portion of the distribution underwritten by him.

(7) In an action for damages pursuant to subsection 1, the defendant is not liable for all or any portion of such damages that he proves do not represent the depreciation in value of the security as a result of the misrepresentation relied upon. Limitation in action for damages

(8) All or any one or more of the persons or companies specified in subsection 1 are jointly and severally liable, and every person or company who becomes liable to make any payment under this section may recover a contribution from any person or company who, if sued separately, would have been liable to make the same payment. Joint and several liability

(9) In no case shall the amount recoverable under this section exceed the price at which the securities were offered to the public. Limitation re amount recoverable

(10) The right of action for rescission or damages conferred by this section is in addition to and without derogation from any other right the purchaser may have at law. R.S.O. 1970, c. 426, s. 142, *amended*. No derogation of rights

**126.**—(1) Where a take-over bid circular sent to the offerees of an offeree company as required by Part XIX contains a misrepresentation, every such offeree shall be deemed to have relied on such misrepresentation and has a right of action for rescission or damages against, Liability for misrepresentation in circular

- (a) the offeror;
- (b) every person who at the time the circular was signed was a director of the offeror; and
- (c) each person who signed a certificate in a circular other than the persons included in clause b.

(2) Where a director's circular or a director's or officer's circular sent to the offerees of an offeree company as required by Part XIX contains a misrepresentation, every such offeree shall be deemed to have relied on such misrepresentation and has a right of action for damages against every director or officer who signed the circular. Idem

(3) No person or company is liable under subsection 1 or 2 if he proves that the offeree had knowledge of the misrepresentation. Defence

(4) No person or company, other than the offeror, is liable under subsection 1 or 2 if he proves, Idem



- (a) that the take-over bid circular, directors' circular or director's or officer's circular, as the case may be, was sent without his knowledge or consent and that, on becoming aware of it, he forthwith gave reasonable general notice that it was so sent;
- (b) that, after the sending of the take-over bid circular, directors' circular or director's or officer's circular, as the case may be, on becoming aware of any misrepresentation in the take-over bid circular, directors' circular or director's or officer's circular, he withdrew his consent thereto and gave reasonable general notice of such withdrawal and the reason therefor;
- (c) that, with respect to every misrepresentation, he had, after reasonable investigation, reasonable grounds to believe and did believe the statement was true and that there was no omission to state a material fact;
- (d) that, with respect to any part of the circular purporting to be a copy of an extract from a report, opinion, or statement of an expert, he had no reasonable grounds to believe and did not believe that there had been a misrepresentation or that such part of the circular did not fairly represent the report, opinion, or statement of the expert or was not a fair copy of an extract from the report, opinion or statement of the expert; or
- (e) that, with respect to any part of the circular purporting to be made on his own authority as an expert or purporting to be a copy of an extract from his own report, opinion or statement as an expert, he had, after reasonable investigation, reasonable grounds to believe and did believe that there had been no misrepresentation, or that such part of the circular did not fairly represent his report, opinion or statement as an expert or was not a fair copy of or extract from his report, opinion or statement, and on becoming aware of such use of his report, opinion or statement, he forthwith advised the Commission and gave reasonable general notice that such use had been made and that he would not be responsible for that part of the circular.

No  
derogation  
of rights

(5) The right of action for rescission or damages conferred by this section is in addition to and without derogation from any other right the offeree may have at law. 1971, c. 31, ss. 29, 45, *amended*.

**127.** A person or company that trades in a security in violation of section 54, 66, 72, subsection 4, 5 or 7 of section 73 or section 95 is liable to his purchaser or offeree for rescission or damages. R.S.O. 1970, c. 426, s. 65; 1971, c. 31, s. 20, *amended*. Liability for unlawful trade

**128.**—(1) Every person or company that sells or purchases the securities of a reporting issuer with knowledge of a material change with respect to such issuer that has not been generally disclosed is liable to compensate the purchaser or vendor of such securities for damages as a result of such trade unless, Liability where material change undisclosed

- (a) such person or company has reasonable grounds to believe that such material change has been generally disclosed; or
- (b) such material change was known or ought reasonably to have been known to the purchaser or vendor.

(2) Any person or company who has access to information concerning the investment program of a mutual fund that is a reporting issuer and uses that information for his or its direct benefit or advantage to purchase or sell securities of an issuer for his or its account where the portfolio securities of the mutual fund include securities of that issuer is accountable to the mutual fund for any benefit or advantage received or receivable as a result of such purchase or sale. Idem

(3) Every person or company referred to in subsection 1 that is also an insider of the reporting issuer, or an associate or affiliate of such insider, is, in addition to the liability imposed by subsection 1, accountable to such issuer for any benefit or advantage received or receivable by such insider or associate or affiliate. R.S.O. 1970, c. 426, s. 65; 1971, c. 31, s. 20, *amended*. Accountability for gain

**129.**—(1) Upon application by the Commission or by any person or company that was at the time of a transaction referred to in subsection 1 of section 128 or is at the time of the application a security holder of the reporting issuer, a judge of the High Court designated by the Chief Justice of the High Court may, if satisfied that, Action by Commission on behalf of issuer

- (a) the Commission or such person or company has reasonable grounds for believing that the reporting issuer has a cause of action under subsection 3 of section 128; and
- (b) either,

- (i) the reporting issuer has refused or failed to commence an action under section 128 within sixty days after receipt of a written request from the Commission or such person or company so to do, or
- (ii) the reporting issuer has failed to prosecute diligently an action commenced by it under section 128,

make an order, upon such terms as to security for costs and otherwise as to the Judge seems fit, requiring the Commission or authorizing such person or company or the Commission to commence or continue an action in the name of and on behalf of the reporting issuer to enforce the liability created by subsection 3 of section 128.

Action by  
Commission  
on behalf  
of mutual  
fund

(2) Upon the application by the Commission or any person or company that was at the time of a transaction referred to in subsection 2 of section 128 or is at the time of the application a security holder of the mutual fund, a judge of the High Court designated by the Chief Justice of the High Court may, if satisfied that,

- (a) the Commission or such person or company has reasonable grounds for believing that the mutual fund has a cause of action under subsection 2 of section 128; and
- (b) the mutual fund has either,
  - (i) refused or failed to commence an action under subsection 2 of section 128 within sixty days after receipt of a written request from the Commission or such person or company so to do, or
  - (ii) failed to prosecute diligently an action commenced by it under subsection 2 of section 128,

make an order, upon terms as to security for costs or otherwise as to the judge seems fit, requiring the Commission or authorizing such person or company or the Commission to commence and prosecute or to continue an action in the name of and on behalf of the mutual fund to enforce the liability created by subsection 2 of section 128.

Costs

(3) Where an action under subsection 2 or 3 of section 128 is,

- (a) commenced;
- (b) commenced and prosecuted; or
- (c) continued,

by a board of directors of a reporting issuer, the trial judge or a judge of the High Court designated by the Chief Justice of the High Court may order that the costs properly incurred by such board of directors in commencing, commencing and prosecuting or continuing the action, as the case may be, shall be paid by the reporting issuer, if he is satisfied that the action was *prima facie* in the best interests of the reporting issuer and the security holders thereof.

- (4) Where an action under subsection 2 or 3 of section 128 is, Action by Commission on behalf of security holder of the reporting issuer
- (a) commenced;
  - (b) commenced and prosecuted; or
  - (c) continued,

by a person or company who is a security holder of the reporting issuer, the trial judge of the High Court designated by the Chief Justice of the High Court may order that the costs properly incurred by such person or company in commencing, commencing and prosecuting or continuing the action, as the case may be, shall be paid by the reporting issuer, if he is satisfied that,

- (d) the reporting issuer failed to commence the action or had commenced it but had failed to prosecute it diligently; and
- (e) the continuance of the action was *prima facie* in the best interests of the reporting issuer and the security holders thereof.

- (5) Where an action under subsection 2 or 3 of section 128 is, Idem
- (a) commenced;
  - (b) commenced and prosecuted; or
  - (c) continued,

by the Commission, the trial judge or a judge of the High Court designated by the Chief Justice of the High Court



shall order the reporting issuer to pay all costs properly incurred by the Commission in commencing, commencing and prosecuting or continuing the action, as the case may be.

Idem

(6) In determining whether an action or its continuance is *prima facie* in the best interests of a reporting issuer and the security holders thereof, the judge shall consider the relationship between the potential benefit to be derived from the action by the reporting issuer and the security holders thereof and the cost involved in the prosecution of the action.

Notice of application

(7) Notice of every application under subsection 1 or 2 shall be given to the Commission, the reporting issuer, and the mutual fund, as the case may be, and each of them may appear and be heard thereon.

Order to co-operate

(8) Every order made under subsection 1 or 2 requiring or authorizing the Commission to commence and prosecute or continue an action shall provide that the reporting issuer or mutual fund, as the case may be, shall co-operate fully with the Commission in the commencement and prosecution or continuation of the action, and shall make available to the Commission all books, records, documents and other material or information known to the reporting issuer or mutual fund or reasonably ascertainable by the reporting issuer or mutual fund relevant to such action.

Appeal

(9) An appeal lies to the Supreme Court from any order made under this section. *New.*

Rescission of contract

**130.**—(1) If subsection 1 of section 39 applies to a contract and such subsection is not complied with, a person or company that has entered into such contract is entitled to rescission thereof by mailing or delivering written notice of rescission to the registered dealer within sixty days of the date of the delivery of the security to or by such person or company, as the case may be, but, in the case of a purchase by such person or company, only if he is still the owner of the security purchased.

Idem

(2) If clause *c* of subsection 1 of section 36 applies to a contract and a registered dealer has failed to comply with such subsection by not disclosing that he acted as principal, a person or company that has entered into such contract is entitled to rescission thereof by mailing or delivering written notice of rescission to the registered dealer within seven days of the date of the delivery of the written confirmation of the contract. R.S.O. 1970, c. 426, s. 71 (1, 2), *amended.*

(3) For the purpose of subsection 2, a confirmation sent by prepaid mail shall be deemed conclusively to have been delivered to the person or company to whom it was addressed in the ordinary course of mail. *New.* Service

(4) In an action respecting a rescission to which this section applies, the onus of proving compliance with section 36 or 39 is upon the registered dealer. Onus

(5) No action respecting a rescission shall be commenced under this section after the expiration of a period of ninety days from the date of the mailing or delivering the notice under subsection 1 or 2. R.S.O. 1970, c. 426, s. 71 (3, 4), *amended.* Limitation period

**131.**—(1) Every purchaser of a security of a mutual fund may, where the amount of such purchase does not exceed the sum of \$50,000, rescind the purchase by notice given to the registered dealer from whom the purchase was made within forty-eight hours after receipt of the confirmation for a lump sum purchase or within sixty days after receipt of the confirmation for the initial payment under a contractual plan. Rescission of purchase of mutual fund security

(2) The right to rescind a purchase made under a contractual plan may be exercised only with respect to payments scheduled to be made within the time specified in subsection 1 for rescinding a purchase made under a contractual plan. Idem

(3) The notice mentioned in subsection 1 shall be in writing, and may be given by prepaid mail, telegram or other means. Notice

(4) A confirmation sent by prepaid mail shall be deemed conclusively to have been received in the ordinary course of mail by the person or company to whom it was addressed. Service

(5) Every registered dealer from whom the purchase was made shall reimburse the purchaser who has exercised his right of rescission in accordance with this section for the amount of sales charges and fees relevant to the investment of the purchaser in the mutual fund in respect to the shares or units of which the notice of exercise of the right of rescission was given. *New.* Reimbursement

**132.** Unless otherwise provided in this Act, no action shall be commenced to enforce a right created by this Part more than three years after the date of the transaction that gave rise to the liability. *New.* Limitation period for actions

## PART XXIII

## GENERAL PROVISIONS

Admissi-  
bility in  
evidence of  
certified  
statements

**133.** A statement as to,

- (a) the registration or non-registration of any person or company;
- (b) the filing or non-filing of any document or material required or permitted to be filed;
- (c) any other matter pertaining to such registration, non-registration, filing or non-filing, or to any such person, company, document or material;
- (d) the date the facts upon which any proceedings are to be based first came to the knowledge of the Commission,

purporting to be certified by the Commission or a member thereof or by the Director is, without proof of the office or signature of the person certifying, admissible in evidence, so far as relevant, for all purposes in any action, proceeding or prosecution. R.S.O. 1970, c. 426, s. 148, *amended*.

Material  
available  
for  
inspection

**134.** The Commission shall make all material filed under this Act or the regulations available for public inspection during its normal business hours. *New*.

Immunity of  
Commission  
and officers

**135.**—(1) No action or other proceeding for damages shall be instituted against the Commission or any member thereof, or any officer, servant or agent of the Commission for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act or a regulation, or for any neglect or default in the performance or exercise in good faith of such duty or power. R.S.O. 1970, c. 426, s. 145 (1), *amended*.

Immunity  
re intended  
compliance

(2) No person or company has any rights or remedies and no proceedings lie or shall be brought against any person or company for any act or omission done or omitted in compliance or intended compliance with any requirement, order or direction made or given under this Act or the regulations. *New*.

Regulations

**136.** The Lieutenant Governor in Council may make regulations,

1. prescribing categories for persons and companies and the manner of allocating persons and companies to categories, and prescribing the form and content of prospectuses, preliminary prospectuses, *pro forma* prospectuses and statements of material facts to be filed by, and financial conditions applicable to, persons and companies in accordance with their categories;
2. prescribing the form and content of financial statements and interim financial statements required to be filed under this Act;
3. prescribing requirements respecting applications for registration and renewal of registration, and providing for the expiration of registrations;
4. classifying registrants into categories and prescribing the terms and conditions of registration of registrants in each category but no registrant shall be included in a category designated as,
  - i. investment dealer, unless he is a member of the Ontario District of the Investment Dealers' Association of Canada,
  - ii. broker, unless he is a member of a stock exchange in Ontario recognized by the Commission,
  - iii. broker-dealer, unless he is a member of the Broker-Dealers' Association of Ontario;
5. regulating the listing and trading of securities and records relating thereto;
6. governing the furnishing of information to the public or to the Commission by a registrant in connection with securities or trades therein;
7. regulating the trading of securities other than on a stock exchange recognized by the Commission;
8. governing the keeping of accounts and records, the preparation and filing of financial statements of the affairs of the security issuers and the audit requirements with respect thereto;
9. respecting fees payable by an issuer to a management company as consideration for investment



advice, alone or together with administrative or management services, provided by the management company to the mutual fund;

10. respecting sales charges imposed by a distribution company or contractual plan service company under a contractual plan on purchasers of shares or units of a mutual fund, and commissions to be paid to salesmen of shares or units of a mutual fund;
11. designating any person or company or any class of persons or companies that shall not be required to obtain registration as an adviser;
12. prescribing the fees payable to the Commission including fees for filing, fees upon applications for registration, fees in respect of audits made by the Commission and other fees in connection with the administration of this Act and the regulations;
13. prescribing the documents, certificates, reports, releases, statements, agreements and other information and the form, content and other particulars relating thereto that are required to be filed, furnished or delivered under this Act and the regulations;
14. prescribing the practice and procedure of investigations under sections 11 and 13;
15. prescribing the forms for use under this Act and the regulations;
16. prescribing trades or securities, in addition to the trades and securities referred to in section 35 in respect of which registration shall not be required;
17. prescribing trades or securities, referred to in section 35 in respect of which there shall cease to be exemption from registration;
18. prescribing trades or securities, in addition to the trades and securities referred to in sections 73 and 74, in respect of which section 54 does not apply;
19. prescribing terms and conditions that shall be contained in an escrow or pooling agreement with respect to securities issued for a consideration other than cash;

20. prescribing the practice and procedure by which the Commission recognizes exempt purchasers under paragraph 4 of subsection 1 of section 35;
21. prescribing the information required or permitted to be distributed under subsection 2 of section 66;
22. respecting the matters referred to in clause *h* of subsection 2 of section 62, and, without limiting the generality of the foregoing, pertaining to requirements as to paid-up capital and surplus, liquidity of assets, ratios of debt to paid-up capital and surplus, audit procedures, the furnishing of interim financial statements and the provisions of trust indentures and the qualifications, rights, duties and obligations of trustees thereunder;
23. respecting the content and distribution of written, printed or visual material and advertising that may be distributed or used by a person or company with respect to a security whether in the course of distribution or otherwise;
24. prescribing the form and content of the reports to be filed under Part XX;
25. respecting any other matter necessary or advisable to carry out effectively the intent and purpose of Part XX;
26. prescribing the form and content of a take-over bid circular, directors' circular and a director's or officer's circular required by Part XIX;
27. prescribing a penalty for the early redemption of shares or units of a mutual fund;
28. prescribing the form and content of proxies, information circulars and reports required by Parts XVII and XVIII;
29. permitting the Commission or the Director to exempt any person or company from the provisions of the regulations or vary the provisions as they apply to any person or company. R.S.O. 1970, c. 426, s. 147; 1971, c. 31, s. 46, *amended*.

**137.** The Commission may, where in its opinion to do so would not be prejudicial to the public interest, make an order on such terms and conditions as it may impose revoking

Commission's  
discretion to  
revoke or  
vary its  
decision

or varying any decisions made by it under the Act or the regulations. *New.*

Continuation  
of  
registration

**138.** Every registration made and receipt for a prospectus issued under *The Securities Act*, being chapter 426 of the Revised Statutes of Ontario, 1970 and in effect immediately before this Act comes into force, continues in the same manner as if made or issued under this Act. *New.*

Repeal

**139.** The following are repealed:

1. *The Securities Act*, being chapter 426 of the Revised Statutes of Ontario, 1970.
2. *The Securities Amendment Act, 1971*, being chapter 31.
3. *The Securities Amendment Act, 1973*, being chapter 11.
4. Section 55 of *The Government Reorganization Act, 1972*, being chapter 1.

**140.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**141.** This Act may be cited as *The Securities Act, 1975*.





The Securities Act, 1975

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*1st Reading*

May 30th, 1975

*2nd Reading*

*3rd Reading*

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THE HON. S. B. HANDLEMAN  
Minister of Consumer and  
Commercial Relations

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*(Government Bill)*

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5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

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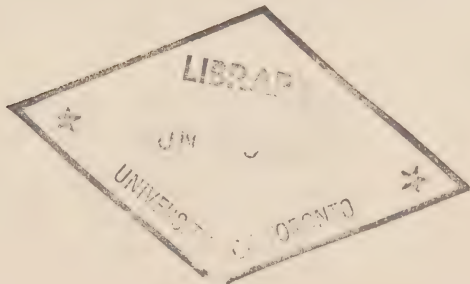
Ontario. Legislative Assembly

**An Act to amend The Business Corporations Act**

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THE HON. S. B. HANDLEMAN  
Minister of Consumer and Commercial Relations

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#### EXPLANATORY NOTE

This Bill is complementary to a Bill to enact *The Securities Act, 1975*.

The provisions respecting insider trading and reporting are contained in *The Securities Act, 1975* and deleted from *The Business Corporations Act*. Similarly the provisions for the contents of financial statements for corporations that are offering their securities to the public are deleted and provided for in *The Securities Act, 1975*. Other changes are for the purpose of co-ordinating *The Business Corporations Act* with the new *Securities Act, 1975*.

BILL 99

1975

## An Act to amend The Business Corporations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Paragraph 3 of subsection 1 of section 1 of *The Business Corporations Act*, being chapter 53 of the Revised Statutes of Ontario, 1970, is repealed. s. 1 (1),  
par. 3,  
repealed
- (2) Paragraph 15 of subsection 1 of the said section 1 is repealed and the following substituted therefor: s. 1 (1),  
par. 15,  
re-enacted
  15. "individual" means a natural person, but does not include a partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, or a natural person in his capacity as trustee, executor, administrator or other legal personal representative.
- (3) Paragraph 19 of subsection 1 of the said section 1, as amended by the Statutes of Ontario, 1972, chapter 138, section 1, is repealed and the following substituted therefor: s. 1 (1),  
par. 19,  
re-enacted
  19. "officer" means the chairman, any vice-chairman of the board of directors, the president, any vice-president, the secretary, the assistant secretary, the treasurer, the assistant treasurer and the general manager of a corporation, and any other person designated an officer of a corporation by by-law or by resolution of the directors or any other individual who performs functions for a corporation similar to those normally performed by an individual occupying any such office.
- (4) Paragraph 23 of subsection 1 of the said section 1 is repealed. s. 1 (1),  
par. 23,  
repealed



s. 1 (1),  
par. 25,  
re-enacted

- (5) Paragraph 25 of subsection 1 of the said section 1 is repealed and the following substituted therefor:

25. "senior officer" means,

- i. the chairman or a vice-chairman of the board of directors, the president, a vice-president, the secretary, the treasurer or the general manager of a corporation or any other individual who performs functions for a corporation similar to those normally performed by an individual occupying any such office, and
- ii. each of the five highest paid employees of a corporation, including any individual referred to in subparagraph i.

s. 1 (6),  
repealed

- (6) Subsection 6 of the said section 1 is repealed.

s. 1 (9) (b),  
re-enacted

- (7) Clause *b* of subsection 9 of the said section 1, as re-enacted by the Statutes of Ontario, 1972, chapter 138, section 1, is repealed and the following substituted therefor:

- (b) any of its securities have been at any time since the 1st day of May, 1967, listed and posted for trading on any stock exchange in Ontario recognized by the Commission, regardless of when such listing and posting for trading commenced,

. . . . .

s. 41,  
re-enacted

2. Section 41 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 138, section 14, is repealed and the following substituted therefor:

Corporation  
insider re  
purchase and  
resale of  
own shares

1975, c. . . .

41. Where a corporation that is offering its securities to the public purchases its issued common shares under subsection 2 of section 39, accepts a donation of any of its shares under section 43, or resells them, the corporation shall be deemed to be an insider as defined in *The Securities Act, 1975* in respect of such purchase or resale and the provisions of Part XX of that Act apply.

s. 118 (2) (b),  
re-enacted

3. Clause *b* of subsection 2 of section 118 of the said Act is repealed and the following substituted therefor:

- (b) any solicitation by a person made under section 49 of *The Securities Act, 1975*; and

1975, c. . . .

. . . . .

4. Section 148, as amended by the Statutes of Ontario, 1971, chapter 26, section 23, and sections 149, 150, 151 and 152 of the said Act are repealed. ss. 148-152, repealed
- 5.—(1) Clause *a* of subsection 1 of section 172 of the said Act is amended by inserting after “incorporation” in the third line “reorganization or continuation, as the case may be” and by striking out “completed” in the seventh line. s. 172 (1) (a), amended
- (2) Clause *b* of subsection 1 of the said section 172 is repealed and the following substituted therefor: s. 172 (1) (b), re-enacted
- (b) in the case of a corporation that is offering its securities to the public, the financial statement required to be filed under *The Securities Act, 1975* and the regulations thereunder relating separately to, 1975, c. . . .
- (i) the period that commenced on the date of incorporation, reorganization or continuation, as the case may be, and ended not more than six months before the annual meeting or, if the corporation has completed a financial year, that commenced immediately after the end of the last financial year and ended not more than six months before the annual meeting, as the case may be, and
- (ii) the period covered by the financial year next preceding the last financial year, if any.
- (3) Subsection 2 of the said section 172 is repealed and the following substituted therefor: s. 172 (2), re-enacted
- (2) It is not necessary to designate the statements referred to in clause *a* of subsection 1 as the statement of profit and loss, statement of surplus and balance sheet. Designation of statements
- 6.—(1) Clause *a*, and clauses *k* and *l* as enacted by the Statutes of Ontario, 1971, chapter 26, section 26 and amended by 1972, chapter 138, section 50, of subsection 1 of section 173 of the said Act are repealed. s. 173 (1) (a, k, l), repealed
- (2) Subsection 2 of the said section 173, as amended by the Statutes of Ontario, 1972, chapter 138, section 50, is further amended by striking out “*h*, *k* and *l*” in the amendment of 1972 and inserting in lieu thereof “and *h*”. s. 173 (2), amended
- (3) Subsections 3 and 4 of the said section 173 are repealed. s. 173 (3, 4), repealed
7. Sections 175 and 176 of the said Act are repealed. ss. 175, 176, repealed

s. 178 (3),  
pars. 16,  
18-21  
repealed

8.—(1) Paragraph 16, and paragraphs 18 to 21 as enacted by the Statutes of Ontario, 1971, chapter 26, section 28, of subsection 3 of section 178 of the said Act are repealed.

s. 178 (4),  
repealed

(2) Subsection 4 of the said section 178, as enacted by the Statutes of Ontario, 1972, chapter 138, section 51, is repealed.

s. 179 (1),  
amended

9.—(1) Subsection 1 of section 179 of the said Act is amended by inserting after "corporation" in the second line "to which clause *a* of subsection 1 of section 172 applies".

s. 179 (3),  
amended

(2) Subsection 3 of the said section 179 is amended by inserting after "corporation" in the second line "to which either clause *a* or *b* of subsection 1 of section 172 applies".

s. 185,  
re-enacted

10. Section 185 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 26, section 30, is repealed and the following substituted therefor:

Interim  
financial  
statements  
1975, c....

185.—(1) A corporation that is offering its securities to the public shall send to each shareholder a copy of an interim financial statement required to be filed under *The Securities Act, 1975* and the regulations thereunder.

Distribution  
to  
shareholders

(2) The interim financial statement required by subsection 1 shall be sent by prepaid mail to each shareholder, within sixty days of the date to which it is made up, at his latest address as shown on the records of the corporation.

s. 251 (2a),  
amended

11. Subsection 2a of section 251 of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 138, section 58, is amended by striking out "section 134 of *The Securities Act*" in the third line and in the eighth line and inserting in lieu thereof in each instance "sections 78 and 79 of *The Securities Act, 1975*".

s. 261 (2),  
re-enacted

12. Subsection 2 of section 261 of the said Act is repealed and the following substituted therefor:

Idem

(2) Where it appears to the Commission that any person or corporation to which section 117 or subsection 1 of section 118 applies has failed to comply with or is contravening any such provision, the Commission may, notwithstanding the imposition of any penalty in respect of such non-compliance or contravention and in addition to any other rights it may have, apply to the court for an order,

(a) directing such person or corporation to comply with such provision or restraining such person or corporation from contravening such provision; and

- (b) directing the directors and senior officers of such person or corporation to cause such person or corporation to comply with or to cease contravening any such provision,

and upon such application, the court may make such order or such other order as the court thinks fit.

- 13.** Section 269 of the said Act is repealed and the following substituted therefor: s. 269,  
re-enacted

269. Any person or corporation directly affected by a decision of the Commission under this Act may appeal from the Commission Supreme Court and subsections 2 to 6 of section 9 of *The Securities Act, 1975*, c...., apply to the appeal.

- 14.** Clause *e* of section 271 of the said Act is repealed. s. 271 (e),  
repealed

- 15.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment

- 16.** This Act may be cited as *The Business Corporations Amendment Act, 1975*. Short title



An Act to amend  
The Business Corporations Act

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*1st Reading*

May 30th, 1975

*2nd Reading*

*3rd Reading*

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THE HON. S. B. HANDLEMAN  
Minister of Consumer and  
Commercial Relations

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*(Government Bill)*

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BILL 100

Government  
Publications  
Government Bill

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

Ontario. Legislative Assembly

**An Act respecting  
the Negotiation of Collective Agreements  
between School Boards and Teachers**

THE HON. T. L. WELLS  
Minister of Education



TORONTO

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#### EXPLANATORY NOTE

The Bill provides procedures for the making and renewing of agreements between a school board and its teachers. The Bill provides for negotiations between a school board and a branch affiliate. The term "branch affiliate" is defined in the Bill.

Provision is also made for the appointment of a fact finder if negotiations come to an impasse and for a choice by the parties of voluntary binding arbitration or final offer selection.

The Bill prohibits strike action unless no agreement is in force, every reasonable effort has been made in good faith to make an agreement, the fact finding procedure has been carried out, the last offer of the board has been rejected by a vote by secret ballot of the teachers, a strike vote has been taken and at least five days notice of the strike and of the date on which the strike will commence has been given by the branch affiliate to the school board.

The Education Relations Commission is established with, among other duties, those of monitoring negotiations between teachers and boards, the compiling of statistical information and the assisting of parties in the making and renewing of agreements.

**An Act respecting  
the Negotiation of Collective Agreements  
between School Boards and Teachers**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

GENERAL

**1.** In this Act,

Interpre-  
tation

(a) "affiliate" means one of the following bodies:

1. L'Association des Enseignants Franco-Ontariens.
2. The Federation of Women Teachers' Associations of Ontario.
3. The Ontario English Catholic Teachers' Association.
4. The Ontario Public School Men Teachers' Federation.
5. The Ontario Secondary School Teachers' Federation;

(b) "agreement" means a written collective agreement made after the coming into force of and pursuant to this Act between a board and a branch affiliate or branch affiliates or between two or more boards and two or more branch affiliates covering matters negotiable under this Act;

(c) "board" means a board of education, public school board, secondary school board, Roman Catholic

separate school board or Protestant separate school board and includes a divisional board of education;

- (d) "branch affiliate" means an organization composed of all the teachers employed by a board who are members of the same affiliate;
- (e) "Commission" means the Education Relations Commission established under this Act;
- (f) "Council" means the Ontario School Trustees' Council;
- (g) "Federation" means the Ontario Teachers' Federation;
- (h) "lock-out" means the suspension of employment of, or the refusal to assign work to, teachers other than principals and vice-principals in a school or schools by a board with the view to compelling the cessation of a strike or preventing the resumption of a strike or with the view to inducing or persuading the branch affiliate that represents the teachers to enter into or renew an agreement;
- (i) "member association" means one of the following bodies:
  1. L'Association Francaise des Conseils Scolaires de l'Ontario.
  2. Northern Ontario Public and Secondary School Trustees' Association.
  3. Ontario Public School Trustees' Association.
  4. Ontario Separate School Trustees' Association;
- (j) "party" means a board or a branch affiliate;
- (k) "principal" means a principal as defined in *The Education Act, 1974*;
- (l) "strike" includes any action or activity by teachers in combination or in concert or in accordance with a common understanding that is designed to curtail, restrict, limit or interfere with the operation or functioning of a school or schools including, without limiting the foregoing,

- (i) withdrawal of services,
- (ii) slow-down in the performance of duties,
- (iii) discontinuance of the cocurricular or extra-curricular programs in a school or schools,
- (iv) the giving of notice to terminate contracts of employment;
- (m) "teacher" means a person,
  - (i) who holds a valid certificate of qualification as a teacher in an elementary or secondary school in Ontario,
  - (ii) who holds a letter of standing granted by the Minister under *The Education Act, 1974*, <sup>1974, c. 109</sup> or
  - (iii) in respect of whom the Minister has granted a letter of permission under *The Education Act, 1974*,

and who is employed by a board under a contract of employment as a teacher in the form of contract prescribed by the regulations under *The Education Act, 1974*, but does not include a supervisory officer as defined in *The Education Act, 1974*, an instructor in a teacher-training institution or a person employed to teach in a school for a period not exceeding one month;

- (n) "vice-principal" means a vice-principal within the meaning of the regulations under *The Education Act, 1974*;
- (o) "vote by secret ballot" means a vote by ballots cast in such a manner that a person expressing his choice cannot be identified with the choice expressed;
- (p) "written collective understanding" means a written collective understanding made before the coming into force of this Act between a board and teachers or the representative or representatives of teachers employed by the board in respect of any term or condition of employment.

**2.** The purpose of this Act is the furthering of harmonious relations between boards and teachers by providing for the <sup>Purpose of Act</sup>

making and renewing of agreements and by providing for the relations between boards and teachers in respect of agreements.

Application  
of Act

**3.**—(1) This Act applies to all collective negotiations between boards and teachers.

Negotiations  
to be in  
accordance  
with Act

(2) No collective negotiations shall be carried on between a board and the teachers employed by the board except in accordance with this Act.

Joint  
negotiations

**4.**—(1) In negotiations and procedures under this Act to make or renew an agreement or agreements, two or more boards may act jointly as a party and two or more branch affiliates may act jointly as a party, where both the boards and branch affiliates involved so agree, to make or renew an agreement between the boards and the branch affiliates or to make or renew a separate agreement between each of the boards and a branch affiliate that represents teachers employed by the board.

Metro-  
politan  
Toronto  
School  
Board  
R.S.O. 1970,  
c. 295

(2) The Metropolitan Toronto School Board may represent the boards of education for all the area municipalities as defined in *The Municipality of Metropolitan Toronto Act* as a party in respect of the negotiation of an agreement, or the renewal of an agreement, with all the branch affiliates composed of and representing only teachers employed by the boards where all of the boards and the branch affiliates involved so agree.

Where  
branch  
affiliates  
may  
negotiate  
as one  
party

(3) Notwithstanding subsection 1, two or more branch affiliates may act as one party in negotiations and procedures under this Act to make or renew an agreement or agreements with the same board.

Effect of  
acting as  
one party

(4) Where two or more boards or two or more branch affiliates act jointly as a party pursuant to subsection 1 or 2, the boards or branch affiliates shall be deemed to be one board or one branch affiliate, as the case may be, for the purposes of this Act.

Repre-  
sentation of  
teachers  
by branch  
affiliate

**5.** A branch affiliate shall, in negotiations and procedures under this Act, represent all the teachers composing its membership.

Negotiating  
group

**6.** In negotiations to make or renew an agreement, a party shall be represented by only one group of persons but may at any time increase, decrease or change the composition of the group.

Transitional  
provision

**7.**—(1) Where collective negotiations for the renewal of a written collective understanding that expires on or after the 31st day of August, 1975 are being carried on between a board and the teachers employed by the board immediately



before this Act comes into force, the board and the branch affiliate that is composed of and represents only teachers employed by the board shall continue the negotiations in good faith with the view to making an agreement in accordance with this Act and written notice of desire to negotiate with the view to making an agreement shall be deemed to have been given pursuant to this Act.

(2) Where a written collective understanding is in effect immediately before the coming into force of this Act, a branch affiliate may give written notice to a board or the board may give written notice to the branch affiliate, Giving of notice where a written collective understanding is in effect

- (a) in the case of a written collective understanding that expires on the 31st day of August, within the month of January in the year in which the understanding expires; or
- (b) in the case of a written collective understanding that expires on the 31st day of December, within the month of May in the year in which the understanding expires,

of its desire to negotiate with the view to making an agreement.

(3) Where a written collective understanding referred to in subsection 2 is expressed to expire in the year 1975 and negotiations are not being carried on immediately before the coming into force of this Act to renew the written collective understanding, a branch affiliate may give written notice to a board or the board may give written notice to the branch affiliate within thirty days after the coming into force of this Act of its desire to negotiate with the view to making an agreement. Idem

(4) Where the notice mentioned in subsection 3 is not given within the period of time provided therein, the written collective understanding mentioned in subsection 3 shall be deemed to be renewed and to continue in force for a further period of one year from the day on which it would have expired. Where notice not given

**8.** At any time during negotiations or procedures under this Act, Parties may obtain assistance

- (a) a board that is a party may obtain assistance from the Council, a member association or another board;
- (b) a branch affiliate that is a party may obtain assistance from the Federation, an affiliate or another branch affiliate; and
- (c) a party may obtain assistance from one or more advisors, agents, counsel or solicitors.

## PART II

## NEGOTIATIONS

**9.** Negotiations shall be carried out in respect of any term or condition of employment put forward by either party.

**10.** Where there is no agreement in force between a board and a branch affiliate and no written collective understanding in force between the board and the branch affiliate or the teachers represented by the branch affiliate, the branch affiliate may give to the board or the board may give to the branch affiliate written notice of its desire to negotiate with the view to making an agreement.

**11.—(1)** Either party to an agreement may give written notice to the other party within the month of January in the year in which the agreement expires of its desire to negotiate with the view to the renewal, with or without modification, of the agreement then in operation.

**(2)** Where an agreement exists between a board or boards and a branch affiliate or branch affiliates and no party to the agreement gives notice in accordance with this Act of its desire to negotiate with the view to the renewal of the agreement, the agreement continues in operation and is renewed from year to year, with each yearly period expiring on the 31st day of August, until the year, if any, in which notice is given in accordance with this Act of desire to negotiate with the view to the renewal, with or without modification, of the agreement.

**(3)** Where notice has been given of desire to negotiate to make or renew an agreement, the terms and conditions of the written collective understanding or agreement that was in force at the time of the giving of the notice remain in effect until an agreement or a new agreement comes into force or the agreement is renewed, as the case may be.

**12.** The parties shall meet within thirty days from the giving of the notice and they shall negotiate in good faith and make every reasonable effort to make an agreement or to renew the agreement, as the case requires.

**13.** The parties, at any time during negotiations to make or renew an agreement, may agree to,

- (a) request the Commission to assign a person to assist the parties to make or renew the agreement;

- (b) request the Commission to appoint a fact finder as provided in Part III; or
- (c) refer all matters remaining in dispute between them to,
  - (i) an arbitrator or a board of arbitration for determination as provided in Part IV, or
  - (ii) a selector for determination as provided in Part V.

**14.** The Commission may, in the exercise of its own discretion, at any time assign a person to assist the parties to make or renew an agreement.

Where  
Commission  
may assign  
person  
to assist  
parties

### PART III

#### FACT FINDING

**15.** The Commission shall appoint a person as a fact finder during negotiations to make or renew an agreement if the parties have not referred all matters remaining in dispute between them to an arbitrator or board of arbitrators as provided in Part IV or a selector as provided in Part V and,

Appointment  
of fact  
finder

- (a) the Commission is of the opinion that an impasse has been reached in the negotiations;
- (b) one or both of the parties gives notice to the Commission that an impasse has been reached in the negotiations and requests the appointment of a fact finder, and the Commission approves the request; or
- (c) the written collective understanding that was in effect or the agreement that was in operation in respect of the parties expires during negotiations between the parties to make or renew an agreement, and fact finding has not taken place as provided in this Part.

**16.** The parties to negotiations to make or renew an agreement may, notwithstanding the appointment of a fact finder,

Parties may  
proceed  
to make  
agreement  
or to  
arbitration  
or selection  
procedure

- (a) make or renew the agreement; or
- (b) agree to refer all matters remaining in dispute between them to,
  - (i) an arbitrator or a board of arbitration for determination as provided in Part IV, or
  - (ii) a selector for determination as provided in Part V,

and upon the giving of notice to the Commission by the parties that they have so acted, the appointment of the fact finder is terminated.

Persons  
prohibited  
as fact  
finder

**17.** No person shall be appointed a fact finder who has a direct pecuniary interest in the matters coming before him or who is acting or has, within the period of six months immediately before the date of his appointment, acted as solicitor, counsel, negotiator, advisor or agent of either of the parties, but no person shall be deemed to have a direct pecuniary interest by reason only of being a ratepayer within the area of jurisdiction of the board that is a party.

Vacancy

**18.** Where a fact finder ceases to act by reason of withdrawal, death or otherwise before submitting his report to the Commission, the Commission shall appoint another person in his stead and such person shall commence the work of the fact finder *de novo*.

Notice of  
appointment  
of fact  
finder

**19.** Where the Commission appoints a fact finder, the Commission shall give written notice to each of the parties of the appointment of and the name and address of the fact finder.

Notice of  
matters  
agreed  
upon and  
matters in  
dispute

**20.**—(1) Within seven days after the receipt of notice from the Commission of the appointment of the fact finder, each party shall give written notice to the fact finder and to the other party setting out all the matters that the parties have agreed upon for inclusion in an agreement and all the matters remaining in dispute between the parties.

Where  
notice  
not given

(2) Where a party fails to comply with subsection 1, the fact finder may make a determination of the matters mentioned in subsection 1 and may then proceed pursuant to this Part.

Duty of  
fact finder

**21.**—(1) It is the duty of a fact finder to confer with the parties and to inquire into, ascertain and make a report setting out the matters agreed upon by the parties for inclusion in an agreement and the matters remaining in dispute between the parties.

What report  
may contain

(2) A fact finder may, in his report, include his findings in respect of any matter that he considers relevant to the making of an agreement between the parties and recommend terms of settlement of the matters remaining in dispute between the parties.

Matters that  
may be  
considered  
by fact  
finder

**22.** In inquiring into and ascertaining the matters remaining in dispute between the parties, the fact finder may inquire into and consider any matter that the fact finder considers relevant to the making of an agreement between the parties including, without limiting the foregoing,



- (a) the conditions of employment in comparable occupations outside the public teaching sector;
- (b) the effect of geographic or other local factors on the terms and conditions of employment;
- (c) the cost to the board of the proposal of either party;
- (d) the interests and welfare of the public.

**23.** The fact finder shall determine his own procedure and, where the fact finder requests information from a party, the party shall, acting in good faith, provide the fact finder with full and complete information. Procedure of fact finder

**24.** The fact finder shall submit his report to the Commission within thirty days after the date of his appointment or within such longer period of time as the Commission may direct and the Commission shall forthwith give a copy of the report to each of the parties. Submission of report of fact finder

**25.** The report of the fact finder is not binding on the parties but is made for the advice and guidance of the parties and upon receipt of the report the parties shall endeavour, in good faith, to make an agreement or to renew the agreement, as the case may be. Report not binding

**26.** Where the Commission has given a copy of the report of the fact finder to each of the parties and, Assignment of assistance

- (a) the Commission is of the opinion that the parties will or are likely to benefit from assistance; or
- (b) one or both of the parties requests assistance from the Commission and the Commission is of the opinion that the parties will or are likely to benefit from assistance,

the Commission may assign a person to assist the parties to make or renew, as the case may be, the agreement.

**27.—(1)** If the parties make or renew, as the case may be, an agreement within fifteen days after the Commission has given a copy of the report to each of the parties, the report shall not be made public by the Commission, either of the parties or by any person. Where report confidential

**(2)** If the parties do not make an agreement, or renew the agreement, as the case may be, within the period of time specified in subsection 1, the Commission shall make public the report of the fact finder. Release of report



Parties  
may agree  
to refer  
matters in  
dispute

**28.** If the parties do not make or renew, as the case may be, an agreement within fifteen days after the Commission has given a copy of the report of the fact finder to each of the parties, the parties may agree to refer all matters in dispute between them that may be provided for in an agreement to,

- (a) an arbitrator or a board of arbitration for determination as provided in Part IV; or
- (b) a selector for determination as provided in Part V.

## PART IV

### VOLUNTARY BINDING ARBITRATION

Parties  
to give  
notice to  
Commission  
where  
arbitration  
agreed  
upon

**29.—(1)** Where the parties agree to refer all matters remaining in dispute between them to an arbitrator or a board of arbitration, the parties shall jointly give written notice to the Commission that they have so agreed and the notice shall state,

- (a) that the parties agree to refer the matters to an arbitrator and,
  - (i) the date of appointment and the name and address of the arbitrator, or
  - (ii) that the parties have not appointed the arbitrator and that the parties request the Commission to appoint the arbitrator; or
- (b) that the parties agree to refer the matters to a board of arbitration and,
  - (i) that the parties have each appointed a person as a member of the board of arbitration and shall set out the names and addresses of the two members so appointed, or
  - (ii) that both of the parties or one of them, as the case may be, has not appointed a person as a member of the board of arbitration and that the parties request the Commission to appoint the members or member, as the case may be, of the board.

Where  
appoint-  
ments  
made by  
Commission

**(2)** Where the parties, in the notice mentioned in subsection 1, request the Commission to appoint the arbitrator or the members or one of the members of the board of

arbitration, the Commission shall make the appointment or appointments and shall forthwith thereafter give notice thereof to the parties setting out the name and address of the appointee or the names and addresses of the appointees, as the case may be, together with the date of the appointment or appointments.

(3) Where the parties agree to refer all matters remaining in dispute between them to a board of arbitration, the two members of the board of arbitration shall, within ten days after the giving of notice of their appointment by the parties or by the Commission, as the case may be, appoint a third person to be chairman of the board of arbitration and the chairman shall forthwith give written notice to the Commission of his appointment.

Appointment of chairman by members

(4) Where the two members of the board of arbitration are unable to appoint or to agree on the appointment of the chairman of the board of arbitration within the period of time set out in subsection 3, the Commission shall appoint the chairman and shall give notice of the appointment to the two members and to the parties and the notice shall set out the name and address of the person appointed and the date of the appointment.

Where Commission to appoint chairman

**30.** No person shall be appointed an arbitrator or member or chairman of a board of arbitration who has a direct pecuniary interest in the matters coming before him or who is acting or has, within the period of six months immediately before the date of his appointment, acted as solicitor, counsel, negotiator, advisor or agent of either of the parties, but no person shall be deemed to have a direct pecuniary interest by reason only of being a ratepayer within the area of jurisdiction of the board that is a party.

Persons prohibited as arbitrator or members or chairman of board of arbitration

**31.**—(1) Where a member of a board of arbitration is unable to enter on or to carry on his duties so as to enable a decision to be rendered within the period of time required by subsection 2 or ceases to act by reason of withdrawal or death before the board of arbitration has completed its work, a replacement shall be appointed by the body that appointed the member, and the board of arbitration shall continue to function as if such member were a member of the board of arbitration from the beginning.

Vacancy

(2) Where the chairman of a board of arbitration is unable to enter on or to carry on his duties so as to enable a decision to be rendered within sixty days after his appointment or within such longer period of time as may be provided in writing by the board of arbitration and consented to by the

Where chairman unable to act

Commission or ceases to act by reason of withdrawal or death, the Commission shall give notice thereof to the members of the board of arbitration who shall within seven days of the giving of the notice appoint a person to be the chairman and if the appointment is not so made by the members it shall be made by the Commission, and after the chairman is appointed the arbitration shall begin *de novo*.

Where  
arbitrator  
unable to  
act

(3) Where an arbitrator is unable to enter on or to carry on his duties so as to enable a decision to be rendered within sixty days after his appointment or within such longer period of time as may be provided in writing by the arbitrator and consented to by the Commission or ceases to act by reason of withdrawal or death, the Commission shall give notice thereof to the parties who shall within seven days of the giving of the notice appoint a person to be the arbitrator and if the appointment is not so made it shall be made by the Commission and after the arbitrator is appointed the arbitration shall begin *de novo*.

Notice of  
matters  
agreed  
upon and  
matters in  
dispute

**32.** Within seven days after the giving of notice that the arbitrator or the chairman of the board of arbitration, as the case may be, has been appointed, each party shall give written notice to the arbitrator or chairman and to the other party setting out all the matters that the parties have agreed upon for inclusion in an agreement and all the matters remaining in dispute between the parties.

Procedure

**33.**—(1) The arbitrator or board of arbitration shall determine his or its own procedure but shall give full opportunity to the parties to present their evidence and make their submissions.

Idem

(2) If the members of a board of arbitration are unable to agree among themselves on matters of procedure or as to the admissibility of evidence, the decision of the chairman governs.

Decision

(3) The decision of a majority of a board of arbitration is the decision of the board, but if there is no majority, the decision of the chairman is the decision of the board.

Powers of  
arbitrator  
or board of  
arbitration

**34.**—(1) The arbitrator or board of arbitration has power,

(a) to summon any person,

(i) to give oral or written evidence on oath or affirmation to the arbitrator or board of arbitration, or

- (ii) to produce in evidence for the arbitrator or board of arbitration such documents and other things as the arbitrator or board of arbitration may specify;
  - (b) to administer oaths and affirmations;
  - (c) to accept for or exclude from consideration any oral testimony, document or other thing, whether admissible in a court of law or not.
- (2) Where any person without lawful excuse,
- (a) on being duly summoned under subsection 1 as a witness before the arbitrator or board of arbitration, as the case may be, makes default in so attending;
  - (b) being in attendance as a witness before the arbitrator or board of arbitration, as the case may be, refuses to take an oath or to make an affirmation legally required by the arbitrator or board of arbitration to be taken or made, or to produce any document or thing in his power or control legally required by the arbitrator or board of arbitration to be produced to him or it, or to answer any question to which the arbitrator or board of arbitration may legally require an answer; or
  - (c) does any other thing that would, if the arbitrator or board of arbitration had been a court of law having power to commit for contempt, have been contempt of that court,

Stated case  
for contempt  
for failure  
to attend,  
etc.

the arbitrator or board of arbitration may state a case to the Divisional Court setting out the facts and that court may, on the application of the arbitrator or board of arbitration, inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court.

**35.**—(1) The arbitrator or board of arbitration shall inquire into, consider and decide on all matters remaining in dispute between the parties.

Duty of  
arbitrator  
or board of  
arbitration

(2) In the conduct of proceedings before him or it and in reaching a decision in respect of a matter in dispute,

Matters  
that may be  
considered  
by arbitrator  
or board of  
arbitration



the arbitrator or board of arbitration may inquire into and consider any matter that the arbitrator or board of arbitration considers relevant to the making of an agreement between the parties.

Time for  
report of  
arbitrator  
or board of  
arbitration

**36.**—(1) The arbitrator or board of arbitration shall complete the consideration of all matters in dispute between the parties and shall report in writing his or its decision on the matters to the parties and to the Commission within sixty days after the giving of notice of the appointment of the arbitrator or of the appointment of the chairman of the board of arbitration, as the case may be, or within such longer period of time as may be provided in writing by the arbitrator or board of arbitration and consented to by the Commission.

Effect of  
decision

(2) The decision of the arbitrator or board of arbitration is binding upon the parties and they shall comply in good faith with the decision.

Preparation  
and  
execution of  
document by  
parties

**37.**—(1) Within thirty days after receipt by the parties of the report of the arbitrator or board of arbitration, as the case may be, the parties shall prepare a document giving effect to all matters agreed upon by the parties and the decision of the arbitrator or board of arbitration and shall execute the document and thereupon it constitutes an agreement.

Where  
arbitrator  
or board of  
arbitration  
to prepare  
document

(2) If the parties fail to execute the document within the period of time mentioned in subsection 1, the arbitrator or board of arbitration, as the case may be, shall prepare the document and submit it to the parties and shall fix the time within which and the place where the parties shall execute the document.

Failure  
to execute  
document

(3) If the parties or either of them fail to execute the document within the time fixed by the arbitrator or the board of arbitration, the document shall be deemed to be in effect as though it had been executed by the parties and the document thereupon constitutes an agreement.

## PART V

### FINAL OFFER SELECTION

Parties  
to give  
notice to  
Commission  
where  
selection  
agreed  
upon

**38.**—(1) Where the parties agree to refer all matters remaining in dispute between them to a selector, the parties shall jointly give written notice to the Commission that they have so agreed and the notice shall state that the parties agree to refer the matters to a selector and,



- (a) the date of appointment and the name and address of the selector; or
- (b) that the parties have not appointed the selector and that the parties request the Commission to appoint the selector.

(2) The parties shall, together with the notice mentioned in subsection 1, give to the Commission a written statement signed by the parties setting out that neither party will withdraw from the proceedings after the final offers of the parties have been submitted to the selector and that the decision of the selector will be accepted by the parties as binding upon them. Statement by parties

(3) Where the parties request the Commission to appoint the selector, the Commission shall make the appointment and give notice of the appointment of the selector to the parties and the notice shall set out the name and address of the person appointed and the date of the appointment. Where Commission appoints selector

**39.** No person shall be appointed a selector who has a direct pecuniary interest in the matters coming before him or who is acting or has, within the period of six months immediately before the date of his appointment, acted as solicitor, counsel, negotiator, advisor or agent of either of the parties, but no person shall be deemed to have a direct pecuniary interest by reason only of being a ratepayer within the area of jurisdiction of the board that is a party. Persons prohibited as selector

**40.** Where a selector is unable to enter on or to carry on his duties so as to enable a decision to be rendered within the time specified by this Act or such longer period of time as may be provided in writing by the selector and consented to by the Commission or ceases to act by reason of withdrawal or death, the Commission shall give notice thereof to the parties who shall within seven days of the giving of the notice appoint a person to be the selector, and if the appointment is not so made by the parties it shall be made by the Commission, and after the selector is appointed, the selection procedure shall begin *de novo*. Selector unable to act

**41.** Within seven days after the giving of notice that the selector has been appointed, the parties shall jointly give written notice to the selector setting out all the matters that the parties have agreed upon for inclusion in an agreement and all the matters remaining in dispute between the parties. Notice of matters agreed upon and matters in dispute

**42.** Within fifteen days after the giving of notice that the selector has been appointed, each party shall give Notice of final offer

written notice to the selector setting out the final offer of the party on all the matters remaining in dispute between the parties and may submit with the notice a written statement in support of the final offer set out in the notice.

Final offer  
of opposite  
party

**43.** Upon receiving the notices of the parties setting out the final offer of each party, the selector shall forthwith give to each party a copy of the notice setting out the final offer of the opposite party on all the matters remaining in dispute between the parties together with a copy of the statement, if any, of the opposite party submitted in support of the final offer of the opposite party.

Written  
response

**44.** Each party may, within ten days after being given a copy of the final offer and supporting statement, if any, of the opposite party, give to the selector a written reply and the selector shall forthwith give a copy of the reply of each party to the opposite party.

Hearing

**45.** Within fifteen days after each party has been given a copy of the final offer and supporting statement, if any, of the opposite party, or within such longer period of time as may be provided in writing by the selector and consented to by the Commission, the selector shall hold a hearing in respect of the matters remaining in dispute between the parties and may, before making a selection, hold a further hearing or hearings.

Parties may  
dispense  
with hearing

**46.** The parties may agree to dispense with a hearing by the selector and in such case may jointly give written notice to the selector that they have so agreed, and, the selector upon receipt of the notice, shall not hold a hearing but shall proceed to his decision.

Procedure

**47.**—(1) The selector shall determine his own procedure but, in holding a hearing, shall give full opportunity to the parties to present their evidence and make their submissions.

Powers of  
selector

(2) The selector has power,

(a) to summon any person,

(i) to give oral or written evidence on oath or affirmation to the selector, or

(ii) to produce in evidence for the selector such documents and other things as the selector may specify;

- (b) to administer oaths and affirmations;
- (c) to accept for or exclude from consideration any oral testimony, document or other thing, whether admissible in a court of law or not.

**48.** The selector shall, within fifteen days after the conclusion of the hearing or hearings or within fifteen days after the giving of the notice by the parties that they have agreed to dispense with a hearing, as the case may be, or within such longer period of time as may be provided in writing by the selector and consented to by the Commission, make a decision selecting all of one of the final offers on all matters remaining in dispute between the parties given to the selector by one or the other of the parties.

**49.** The decision of the selector is binding upon the parties and they shall comply in good faith with the decision.

**50.—**(1) Within thirty days after receipt of notice of the decision of the selector, the parties shall prepare a document giving effect to all matters agreed upon by the parties and the decision of the selector and shall execute the document and thereupon it constitutes an agreement.

(2) If the parties fail to execute the document within the period of time mentioned in subsection 1, the selector shall prepare the document and submit it to the parties and shall fix the time within which and the place where the parties shall execute the document.

(3) If the parties or either of them fail to execute the document within the time fixed by the selector, the document shall be deemed to be in effect as though it had been executed by the parties and the document thereupon constitutes an agreement.

## PART VI

### AGREEMENTS

**51.—**(1) Every agreement shall,

- (a) provide for a term of operation of not less than one year;
- (b) state that it is effective on and after the 1st day of September in the year in which it is to come into operation; and

- (c) state that it expires on the 31st day of August in the year in which it ceases to operate.

Exception

(2) Notwithstanding clause *b* of subsection 1, where an agreement is to come into operation on the expiry of a written collective understanding, the agreement may provide that the agreement comes into operation on the day immediately following the day the written collective understanding expires.

Resolution  
of matters  
arising  
out of  
agreement

**52.** Unless an agreement otherwise provides for the final and binding settlement of all differences between the parties arising from the interpretation, application, administration or alleged contravention of the agreement, the agreement is deemed to include the following provision:

Where a difference arises between the parties relating to the interpretation, application or administration of this agreement, or where an allegation is made that this agreement has been contravened, either of the parties may, after exhausting any grievance procedure established by this agreement, notify the other party in writing of its desire to submit the difference or allegation to arbitration and the notice shall contain the name of the first party's appointee to an arbitration board. The recipient of the notice shall within five days inform the other party either that it accepts the other party's appointee as a single arbitrator or inform the other party of the name of its appointee to the arbitration board. Where two appointees are so selected they shall, within five days of the appointment of the second of them, appoint a third person who shall be the chairman. If the recipient of the notice fails to appoint an arbitrator or if the two appointees fail to agree upon a chairman within the time limited, the appointment shall be made by the Commission upon the request of either party. The single arbitrator or the arbitration board, as the case may be, shall hear and determine the difference or allegation and shall issue a decision and the decision is final and binding upon the parties and upon any employee or employer affected by it. The decision of a majority is the decision of the arbitration board, but, if there is no majority, the decision of the chairman governs. The arbitrator or arbitration board, as the case may be, shall not by his or its decision add to, delete from, modify or otherwise amend the provisions of this agreement.

Provision  
against  
strikes, etc.

**53.**—(1) Every agreement shall provide that there will be no strike or lock-out during the term of the agreement or of any renewal of the agreement.



(2) If an agreement does not contain the provision mentioned in subsection 1, the agreement shall be deemed to contain the following provision: Statutory provision

“There shall be no strike or lock-out during the term of this agreement or of any renewal of this agreement”.

(3) For the purposes of subsections 1 and 2, a written collective understanding shall be deemed to be an agreement.

**54.**—(1) An agreement between a board and a branch affiliate shall be deemed to form part of the contract of employment between the board and each teacher who is a member of the branch affiliate. Agreement to form part of contract of employment

(2) Where a conflict appears between a provision of any other part of a contract of employment and a provision of the agreement referred to in subsection 1, the provision of the agreement prevails, but no agreement shall conflict with the form of contract prescribed by the regulations under *The Education Act, 1974*. Conflict  
1974, c. 109

**55.** Where the parties agree on all the matters to be included in an agreement, whether during or at the conclusion of negotiations or other proceedings under this Act, the chief executive officer of the board or of each of the boards, as the case may be, that is a party shall forthwith give notice thereof to the Commission. Notice of agreement

**56.** Where the parties agree on all the matters to be included in an agreement, whether during or at the conclusion of negotiations or other proceedings under this Act, they shall prepare a document incorporating all the matters agreed upon and shall execute the document and the document thereupon constitutes an agreement. Where agreement reached

**57.** Upon the execution of an agreement, each party to the agreement shall forthwith give notice thereof, together with a copy of the agreement, to the Commission. Notice to Commission of execution of agreement

**58.** An agreement is binding upon the board and upon the branch affiliate that is a party to it and upon the teachers employed by the board who are members of the branch affiliate. Binding effect of agreement

## PART VII

### EDUCATION RELATIONS COMMISSION

**59.**—(1) There shall be a commission to be known as the Education Relations Commission composed of five persons who shall be appointed by the Lieutenant Governor in Council. Commission established



- Chairman and vice-chairman (2) The Lieutenant Governor in Council shall designate a chairman and a vice-chairman from among the members of the Commission.
- Acting chairman (3) In the case of the absence or inability to act of the chairman or of there being a vacancy in the office of the chairman, the vice-chairman shall act as and have all the powers of the chairman and in the absence of the chairman and, vice-chairman from any meeting of the Commission, the members of the Commission present at the meeting shall appoint an acting chairman who shall act as and have all the powers of the chairman during the meeting.
- Term of office (4) The members of the Commission shall be appointed for a term of one, two or three years so that as nearly as possible one-third of the members shall retire each year.
- Vacancy (5) Every vacancy on the Commission caused by the death, resignation or incapacity of a member may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member.
- Reappointment (6) Each of the members of the Commission is eligible for reappointment upon the expiration of his term of office.
- Quorum (7) Three members of the Commission constitute a quorum and are sufficient for the exercise of all the authority of the Commission.
- Exercising powers (8) The powers of the Commission shall be exercised by resolution and the Commission may pass resolutions governing the calling of and the proceedings at meetings and specifying the powers and duties of employees of the Commission and generally dealing with the carrying out of its duties.
- Remuneration (9) The members of the Commission shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council.
- Officers, staff, etc. (10) Subject to the approval of the Lieutenant Governor in Council, the Commission may establish job classifications, salary ranges and the terms and conditions of employment for its employees.
- R.S.O. 1970, c. 387, applicable (11) *The Public Service Superannuation Act* applies to the permanent employees of the Commission as though the Commission had been designated by the Lieutenant Governor in Council under section 27 of that Act.

(12) The Commission may engage persons other than those employed pursuant to subsection 10 to provide professional, technical or other assistance to or on behalf of the Commission, and may prescribe the terms of engagement and provide for payment of the remuneration and expenses of such persons.

Professional  
and other  
assistance

**60.**—(1) It is the duty of the Commission,

Duties of  
Commission

- (a) to carry out the duties imposed on it by this Act and such other functions as may, in the opinion of the Commission, be necessary to carry out the intent and purpose of this Act;
- (b) to maintain an awareness of negotiations between teachers and boards;
- (c) to compile statistical information on the supply, distribution, professional activities and salaries of teachers;
- (d) to provide such assistance to parties as may facilitate the making or renewing of agreements;
- (e) to select and, where necessary, to train persons who may act as mediators, fact finders, arbitrators or selectors;
- (f) to determine, at the request of either party or in the exercise of its discretion, whether or not either of the parties is or was negotiating in good faith and making every reasonable effort to make or renew an agreement;
- (g) to determine the manner of conducting and to supervise votes by secret ballot pursuant to this Act; and
- (h) to advise the Lieutenant Governor in Council when, in the opinion of the Commission, the continuance of a strike or lock-out will place in jeopardy the successful completion of courses of study by the students affected by the strike or lock-out.

(2) The Commission may request a board to provide information necessary to compile the statistical information referred to in subsection 1 and a board shall comply with such a request.

Provision of  
information

**61.** No member of the Commission shall be required to give testimony in any proceeding under this Act with regard to information obtained by him in the discharge of his duties as a member of the Commission.

Testimony  
by member  
of  
Commission

Moneys

**62.** The moneys required for the purposes of the Commission shall, until the 31st day of March, 1976, and, subject to the approval of the Lieutenant Governor in Council, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

## PART VIII

## STRIKES AND LOCK-OUTS

Notice of  
strike

**63.—(1)** No teacher shall take part in a strike against the board that employs the teacher unless,

- (a) there is no agreement in operation that is deemed under this Act to form part of the contract of employment between the board and the teacher;
- (b) notice of desire to negotiate to make or renew an agreement has been given to the board by a branch affiliate that represents the teacher and the branch affiliate has negotiated in good faith and made every reasonable effort to make or renew an agreement;
- (c) all the matters remaining in dispute between the board and the branch affiliate that represents the teacher have been referred to a fact finder and thirty days have elapsed after the Commission has given a copy of the report of the fact finder to each of the parties;
- (d) the offer of the board in respect of all matters remaining in dispute between the parties last received by the branch affiliate that represents the teacher is submitted to and rejected by the teachers composing the branch affiliate by a vote by secret ballot conducted under the supervision of and in the manner determined by the Commission;
- (e) the teachers composing the branch affiliate that represents the teacher have voted, not earlier than the vote referred to in clause *d* and not before the end of the thirty day period referred to in clause *c*, in favour of a strike by a vote by secret ballot conducted under the supervision of and in the manner determined by the Commission; and
- (f) after a vote in favour of a strike in accordance with clause *e*, the branch affiliate that represents the teacher gives to the board written notice of the strike and of the date on which the strike

will commence at least five days before the commencement of the strike.

(2) Where a written collective understanding is in effect immediately before the coming into force of this Act, no teacher shall take part in a strike against the board unless the requirements of clauses *c*, *d*, *e* and *f* of subsection 1 are complied with.

Where written collective understanding

(3) For the purpose of subsection 1, a written collective understanding is deemed to be an agreement mentioned in clause *a* of subsection 1.

Where written collective understanding deemed to be agreement

**64.**—(1) A principal and a vice-principal shall be considered essential employees and shall not take part in a strike vote or a strike.

Principals and vice-principals

(2) Notwithstanding subsection 1, a principal and a vice-principal shall be members of a branch affiliate.

Idem, membership in branch affiliate

**65.**—(1) The Federation shall not and no affiliate or branch affiliate shall call or authorize or threaten to call or authorize an unlawful strike.

Unlawful strike

(2) No officer, official or agent of the Federation, an affiliate or a branch affiliate or member of a branch affiliate shall counsel, procure, support or encourage an unlawful strike or threaten an unlawful strike.

Idem

**66.**—(1) The Council shall not and no member association or board shall call or authorize or threaten to call or authorize an unlawful lock-out.

Unlawful lock-out

(2) No officer, official or agent of the Council, a member association or a board or member of a board shall counsel, procure, support or encourage an unlawful lock-out or threaten an unlawful lock-out.

Idem

**67.**—(1) Where the Federation, an affiliate or a branch affiliate calls or authorizes a strike or teachers take part in a strike against a board that the board, a member association or the Council alleges is unlawful, the board, member association or Council may apply to the Ontario Labour Relations Board for a declaration that the strike is unlawful, and the Board may make the declaration.

Declaration of unlawful strike

(2) Where the Council, a member association or a board calls or authorizes a lock-out of members of a branch affiliate that the branch affiliate, an affiliate or the Federation alleges is unlawful, the branch affiliate, affiliate or Federation may apply to the Ontario Labour Relations Board for a declaration

Declaration of unlawful lock-out

that the lock-out is unlawful, and the Board may make the declaration.

Powers  
of board

**68.**—(1) Where a lawful strike is declared or authorized against a board, the board may,

- (a) lock out teachers employed by the board, other than principals or vice-principals, as provided in subsection 2; and
- (b) close any school or schools as provided in subsection 4.

Lock-out

(2) Where a lawful strike takes place against a board, the board may lock out of any school affected by the strike all members, other than principals and vice-principals, of the branch affiliate that represents teachers engaged in the strike.

Idem

(3) Except as provided in subsection 2, a board shall not lock out a teacher.

Closing  
of school

(4) Where a lawful strike is declared or authorized against a board, the board may close a school where the board is of the opinion that,

- (a) the safety of students enrolled in the school may be endangered;
- (b) the school building or the equipment or supplies therein may not be adequately protected during the strike; or
- (c) the strike will substantially interfere with the operation of the school,

and may keep the school closed until the branch affiliate that called or authorized the strike or that represents the teachers engaged in the strike gives written notice to the board that the strike is ended.

Payment of  
teachers

(5) A teacher is not entitled to be paid his salary in respect of the school days that he is on strike and a teacher, other than a principal or a vice-principal, is not entitled to be paid his salary in respect of the school days on which he is prevented from performing his duties as the result of action by a board pursuant to subsection 2 or 4.

Application  
of section  
1974, c. 109

(6) The provisions of this section apply notwithstanding any provision of *The Education Act, 1974*.



**69.** The contract of employment or position of a teacher shall not be terminated by reason of his participation in a lawful strike. Participation in lawful strike

**70.** Nothing in this Act precludes a teacher from terminating his employment with a board in good faith in accordance with the provisions of his contract of employment. Resignation by teacher

## PART IX

### MISCELLANEOUS

**71.** Where, under this Act, a party is required to give notice to another party, the party giving the notice shall also within the same time limit, if any, give a copy of the notice to the Commission. Copies of notice to be given to Commission

**72.** No decision, order, determination, direction, declaration or ruling of the Commission, a fact finder, an arbitrator or board of arbitrators, a selector or the Ontario Labour Relations Board shall be questioned or reviewed in any court, and no order shall be made or process entered, or proceedings taken in, any court, whether by way of injunction, declaratory judgment, certiorari, mandamus, prohibition, quo warranto, application for judicial review or otherwise, to question, review, prohibit or restrain the Commission, fact finder, arbitrator or board of arbitration, selector or the Ontario Labour Relations Board or the proceedings of any of them. Decisions, etc., of Commission and others not subject to review

**73.** Any notice or document required or authorized by this Act to be given shall, Service of notice

- (a) where it is to be given to the Commission, be delivered to the office of the Commission;
- (b) where it is to be given to a board, be delivered to the office of the board;
- (c) where it is to be given to a branch affiliate, be delivered to an officer of the branch affiliate;
- (d) where it is to be given to an affiliate, the Council, the Federation or a member association, be delivered to the office of the affiliate, the Council, the Federation or the member association, as the case requires;
- (e) where it is to be given to an arbitrator or selector, be delivered to the arbitrator or selector; and

- (f) where it is to be given to a board of arbitration, be delivered to the chairman or either of the other two members of the board of arbitration.

Costs

**74.**—(1) The expenditures incurred by a party in respect of a person appointed or retained by the party for the purpose of making or renewing an agreement shall be borne by the party and all other expenses, including fees for a single arbitrator, a selector or a chairman of a board of arbitration shall be shared equally by the parties and such expenditures and fees shall be paid within sixty days after the agreement or renewal of agreement is executed or is deemed in effect as though it had been executed by the parties.

Idem

(2) The fees and expenses, if any, of persons assigned by the Commission to assist parties to make or renew an agreement and of fact finders appointed by the Commission shall be paid by the Commission.

Statement  
as to  
officers  
of branch  
affiliate

**75.** Where the Commission so directs, a branch affiliate shall file with the Commission, within the time prescribed in the direction, a statement signed by its president or secretary setting out the names and addresses of its officers.

Where vote  
by secret  
ballot  
required

**76.** Where a branch affiliate conducts a vote of its members,

(a) for the purposes of subsection 1 of section 63; or

(b) to give approval to the terms of an agreement,

the vote shall be a vote by secret ballot conducted under the supervision of and in the manner determined by the Commission.

Contraven-  
tion by  
teacher or  
trustee

**77.**—(1) Every person who contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 for each day upon which the contravention occurs or continues.

Contraven-  
tion by  
Council or  
Federation

(2) The Council and every member association and every board and the Federation and every affiliate and every branch affiliate that contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$10,000 for each day upon which such contravention occurs or continues.

Contraven-  
tion of  
decision.  
etc.

(3) The contravention of a decision, order, determination, direction, declaration or ruling made under this Act is deemed, for the purposes of this section, to be a contravention of this Act.

(4) Where the Council or a member association or the Federation or an affiliate or a branch affiliate is guilty of an offence under this Act, every officer or representative thereof, and where a board is guilty of an offence under this Act every member of the board, who assents to the commission of the offence shall be deemed to be a party to and guilty of the offence and is liable to a fine under subsection 1 as if he had been convicted of an offence under subsection 1.

Where officers also guilty of offence

(5) An information in respect of a contravention of any provision of this Act may be for one or more offences and no information, warrant, conviction or other proceedings in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences.

Information

(6) No prosecution for an offence under this Act shall be instituted except with the consent of the Ontario Labour Relations Board which may only be granted after affording an opportunity to the person or body seeking the consent and the person or body sought to be prosecuted to be heard.

Consent to prosecution

**78.** A prosecution for an offence under this Act may be instituted against any body, association or organization in the name of the body, association or organization whether or not the body, association or organization is a body corporate and, for the purposes of any such prosecution, any unincorporated body, association or organization shall be deemed to be a body corporate.

Style of prosecution

**79.** Any act or thing done or omitted by an officer, official or agent of the Federation, an affiliate, a branch affiliate, the Council, a member association or a board or by a member of a board within the apparent scope of his authority to act on behalf of the Federation, affiliate, branch affiliate, Council, member association or board shall be deemed to be an act or thing done or omitted by the Federation, affiliate, branch affiliate, Council, member association or board, as the case may be.

Vicarious responsibility

**80.** *The Arbitrations Act* and *The Statutory Powers Procedure Act, 1971* do not apply to proceedings under this Act.

R.S.O. 1970, c. 25, 1971, c. 47, not to apply

**81.** Notwithstanding any other provision of this Act,

Compellability of witnesses

(a) the Minister of Education;

(b) the Deputy Minister of Education;

(c) the chairman, a vice-chairman or a member of the Ontario Labour Relations Board;

(*d*) an arbitrator or member or chairman of a board of arbitration; or

(*e*) a selector,

is not a compellable witness in any proceeding under this Act.

Commence-  
ment

**82.** This Act comes into force on the day it receives Royal Assent.

Short title

**83.** This Act may be cited as *The School Boards and Teachers Collective Negotiations Act, 1975*.









An Act respecting the Negotiation of  
Collective Agreements between School  
Boards and Teachers

---

*1st Reading*

June 3rd, 1975

*2nd Reading*

*3rd Reading*

---

THE HON. T. L. WELLS  
Minister of Education

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*(Government Bill)*

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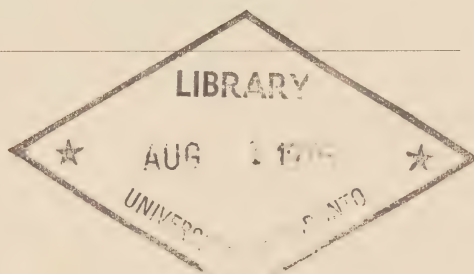
Government Bill

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

Ontario. Legislative Assembly

**An Act respecting  
the Negotiation of Collective Agreements  
between School Boards and Teachers**

THE HON. T. L. WELLS  
Minister of Education



*(Reprinted as amended by the Social Development Committee)*

TORONTO

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#### EXPLANATORY NOTE

The Bill provides procedures for the making and renewing of agreements between a school board and its teachers. The Bill provides for negotiations between a school board and a branch affiliate. The term "branch affiliate" is defined in the Bill.

Provision is also made for the appointment of a fact finder if negotiations come to an impasse and for a choice by the parties of voluntary binding arbitration or final offer selection.

The Bill prohibits strike action unless no agreement is in force, notice of desire to negotiate has been given, the fact finding procedure has been carried out, the last offer of the board has been rejected by a vote by secret ballot of the teachers, a strike vote has been taken and at least five days notice of the strike and of the date on which the strike will commence has been given by the branch affiliate to the school board.

The Education Relations Commission is established with, among other duties, those of monitoring negotiations between teachers and boards, the compiling of statistical information and the assisting of parties in the making and renewing of agreements.

BILL 100

1975

**An Act respecting  
the Negotiation of Collective Agreements  
between School Boards and Teachers**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

GENERAL

**1.** In this Act,

Interpre-  
tation

(a) “affiliate” means one of the following bodies:

1. L’Association des Enseignants Franco-Ontariens.
2. The Federation of Women Teachers’ Associations of Ontario.
3. The Ontario English Catholic Teachers’ Association.
4. The Ontario Public School Men Teachers’ Federation.
5. The Ontario Secondary School Teachers’ Federation;

(b) “agreement” means a written collective agreement made after the coming into force of and pursuant to this Act between a board and a branch affiliate or branch affiliates or between two or more boards and two or more branch affiliates covering matters negotiable under this Act;

(c) “board” means a board of education, public school board, secondary school board, Roman Catholic

separate school board or Protestant separate school board and includes a divisional board of education;

- (d) "branch affiliate" means an organization composed of all the teachers employed by a board who are members of the same affiliate;
- (e) "Commission" means the Education Relations Commission established under this Act;
- (f) "Council" means the Ontario School Trustees' Council;
- (g) "Federation" means the Ontario Teachers' Federation;
- (h) "lock-out" means the suspension of employment of, or the refusal to assign work to, teachers other than principals and vice-principals in a school or schools by a board with the view to compelling the cessation of a strike or preventing the resumption of a strike or with the view to inducing or persuading the branch affiliate that represents the teachers to enter into or renew an agreement;
- (i) "member association" means one of the following bodies:
  1. L'Association Francaise des Conseils Scolaires de l'Ontario.
  2. Northern Ontario Public and Secondary School Trustees' Association.
  3. Ontario Public School Trustees' Association.
  4. Ontario Separate School Trustees' Association;
- (j) "party" means a board or a branch affiliate;
- (k) "principal" means a principal as defined in *The Education Act, 1974*;
- (l) "strike" includes any action or activity by teachers in combination or in concert or in accordance with a common understanding that is designed to curtail, restrict, limit or interfere with the operation or functioning of a school program or school programs or of a school or schools including, without limiting the foregoing,



- (i) withdrawal of services,
  - (ii) work to rule,
  - (iii) the giving of notice to terminate contracts of employment;
- (m) "teacher" means a person,
- (i) who holds a valid certificate of qualification as a teacher in an elementary or secondary school in Ontario,
  - (ii) who holds a letter of standing granted by the Minister under *The Education Act, 1974*,<sup>1974, c. 109</sup> or
  - (iii) in respect of whom the Minister has granted a letter of permission under *The Education Act, 1974*,

and who is employed by a board under a contract of employment as a teacher in the form of contract prescribed by the regulations under *The Education Act, 1974*, but does not include a supervisory officer as defined in *The Education Act, 1974*, an instructor in a teacher-training institution or a person employed to teach in a school for a period not exceeding one month;

- (n) "vice-principal" means a vice-principal within the meaning of the regulations under *The Education Act, 1974*;
- (o) "vote by secret ballot" means a vote by ballots cast in such a manner that a person expressing his choice cannot be identified with the choice expressed;
- (p) "written collective understanding" means a written collective understanding made before the coming into force of this Act between a board and teachers or the representative or representatives of teachers employed by the board in respect of any term or condition of employment.

**2.** The purpose of this Act is the furthering of harmonious relations between boards and teachers by providing for the making and renewing of agreements and by providing for the relations between boards and teachers in respect of agreements. <sup>Purpose of Act</sup>



Application  
of Act

**3.—(1)** This Act applies to all collective negotiations between boards and teachers in respect of any term or condition of employment put forward by either party for the purpose of making or renewing an agreement.

Negotiations  
to be in  
accordance  
with Act

(2) No such collective negotiations shall be carried on between a board and the teachers employed by the board except in accordance with this Act.

Joint  
negotiations

**4.—(1)** In negotiations and procedures under this Act to make or renew an agreement or agreements, two or more boards may act jointly as a party and two or more branch affiliates may act jointly as a party, where both the boards and branch affiliates involved so agree, to make or renew an agreement between the boards and the branch affiliates or to make or renew a separate agreement between each of the boards and a branch affiliate that represents teachers employed by the board.

Idem

(2) A separate agreement between a board and a branch affiliate made pursuant to subsection 1 may include terms and conditions of employment in addition to and consistent with those terms and conditions which are part of the agreement between all the boards acting as a party and all the branch affiliates acting as a party.

Branch  
affiliates  
may  
negotiate  
as one party

(3) Notwithstanding subsection 1, two or more branch affiliates may act as one party in negotiations and procedures under this Act to make or renew an agreement or agreements with the same board.

Agreements  
between  
individual  
boards and  
branch  
affiliates

(4) Where two or more boards act jointly as a party and two or more branch affiliates act jointly as a party pursuant to subsection 1, any negotiations and proceedings and resulting agreement pursuant to subsection 2 between one of the boards and a branch affiliate shall be deemed to be part of the joint negotiations and agreement in accordance with subsection 1.

Continuation  
of agreement  
to act jointly

(5) A board or branch affiliate that agrees to act jointly with another board or branch affiliate pursuant to subsection 1, shall continue to act jointly with such other board or branch affiliate until an agreement is made or renewed between the parties.

Repre-  
sentation of  
teachers  
by branch  
affiliate

**5.** A branch affiliate shall, in negotiations and procedures under this Act, represent all the teachers composing its membership.

Negotiating  
group

**6.** In negotiations to make or renew an agreement, a party shall be represented by only one group of persons but may at any time increase, decrease or change the composition of the group.

7.—(1) Where collective negotiations for the renewal of a written collective understanding that expires on or after the 31st day of August, 1975 are being carried on between a board and the teachers employed by the board immediately before this Act comes into force, the board and the branch affiliate that is composed of and represents only teachers employed by the board shall continue the negotiations in good faith with the view to making an agreement in accordance with this Act and written notice of desire to negotiate with the view to making an agreement shall be deemed to have been given pursuant to this Act. Transitional provision

(2) Where a written collective understanding is in effect immediately before the coming into force of this Act, a branch affiliate may give written notice to a board or the board may give written notice to the branch affiliate, Giving of notice where written collective understanding in effect

- (a) in the case of a written collective understanding that expires on the 31st day of August, within the month of January in the year in which the understanding expires; or
- (b) in the case of a written collective understanding that expires on the 31st day of December, within the month of May in the year in which the understanding expires,

of its desire to negotiate with the view to making an agreement.

(3) Where a written collective understanding referred to in subsection 2 is expressed to expire in the year 1975 and negotiations are not being carried on immediately before the coming into force of this Act to renew the written collective understanding, a branch affiliate may give written notice to a board or the board may give written notice to the branch affiliate within thirty days after the coming into force of this Act of its desire to negotiate with the view to making an agreement. Idem

(4) Where the notice mentioned in subsection 3 is not given within the period of time provided therein, the written collective understanding mentioned in subsection 3 shall be deemed to be renewed and to continue in force for a further period of one year from the day on which it would have expired. Where notice not given

8. At any time during negotiations or procedures under this Act, Parties may obtain assistance

- (a) a board that is a party may obtain assistance from the Council, a member association or another board;

- (b) a branch affiliate that is a party may obtain assistance from the Federation, an affiliate or another branch affiliate; and
- (c) a party may obtain assistance from one or more advisors, agents, counsel or solicitors.

## PART II

### NEGOTIATIONS

**9.** Negotiations shall be carried out in respect of any term or condition of employment put forward by either party.

**10.** Where there is no agreement in force between a board and a branch affiliate and no written collective understanding in force between the board and the branch affiliate or the teachers represented by the branch affiliate, the branch affiliate may give to the board or the board may give to the branch affiliate written notice of its desire to negotiate with the view to making an agreement.

**11.—(1)** Either party to an agreement may give written notice to the other party within the month of January in the year in which the agreement expires of its desire to negotiate with the view to the renewal, with or without modification, of the agreement then in operation.

**(2)** Where an agreement exists between a board or boards and a branch affiliate or branch affiliates and no party to the agreement gives notice in accordance with this Act of its desire to negotiate with the view to the renewal of the agreement, the agreement continues in operation and is renewed from year to year, with each yearly period expiring on the 31st day of August, until the year, if any, in which notice is given in accordance with this Act of desire to negotiate with the view to the renewal, with or without modification, of the agreement.



**(3)** Where notice has been given of desire to negotiate to make or renew an agreement, the terms and conditions of the written collective understanding or agreement, other than a term or condition that prevents a strike, that was in force at the time of giving the notice shall not be altered until either,

- (a) an agreement or a new agreement comes into force or the agreement is renewed, as the case may be; or

- (b) subject to subsection 2 of section 28 and subsection 5 of section 69, sixty days have elapsed after the Commission has made public the report of the fact finder as provided in section 27,

whichever first occurs.

**12.—**(1) The parties shall meet within thirty days from the giving of the notice and they shall negotiate in good faith and make every reasonable effort to make an agreement or to renew the agreement, as the case requires.

Obligation  
to negotiate

(2) Notwithstanding subsection 1, where a written collective understanding expires on or about the 31st day of December, 1975, and notice is given pursuant to subsection 3 of section 7, the parties shall meet on or before the 15th day of September, 1975 and they shall negotiate in good faith and make every reasonable effort to make an agreement.

Transitional  
provision

**13.—**(1) The parties, at any time during negotiations to make or renew an agreement, may agree to,

Parties  
may choose  
procedures  
to reach  
agreement

- (a) request the Commission to assign a person to assist the parties to make or renew the agreement;
- (b) request the Commission to appoint a fact finder as provided in Part III; or
- (c) refer all matters remaining in dispute between them that may be provided for in an agreement to,
  - (i) an arbitrator or a board of arbitration for determination as provided in Part IV, or
  - (ii) a selector for determination as provided in Part V.

(2) Where the parties refer all matters remaining in dispute between them to an arbitrator or a board of arbitration or to a selector pursuant to clause c of subsection 1, no teacher who is a member of a branch affiliate that is a party shall engage in a strike against the board that is a party and the board shall not lock out or declare a state of lock-out to exist against members of the branch affiliate that is a party.

Effect of  
choice of  
procedure

**14.** The Commission may, in the exercise of its own discretion, at any time assign a person to assist the parties to make or renew an agreement.

Where  
Commission  
may assign  
person  
to assist  
parties

## PART III

## FACT FINDING

Appointment  
of fact  
finder

**15.** The Commission shall appoint forthwith a person as a fact finder during negotiations to make or renew an agreement if the parties have not referred all matters remaining in dispute between them to an arbitrator or board of arbitration as provided in Part IV or a selector as provided in Part V and,

- (a) one or both of the parties gives notice to the Commission that an impasse has been reached in the negotiations and requests the appointment of a fact finder, and the Commission approves the request;
- (b) the Commission is of the opinion that an impasse has been reached in the negotiations; or
- (c) the written collective understanding that was in effect or the agreement that was in operation in respect of the parties expires during negotiations between the parties to make or renew an agreement, and fact finding has not taken place as provided in this Part.

Parties may  
proceed  
to make  
agreement  
or to  
arbitration  
or selection  
procedure

**16.** The parties to negotiations to make or renew an agreement may, notwithstanding the appointment of a fact finder,

- (a) make or renew the agreement; or
- (b) agree to refer all matters remaining in dispute between them to,
  - (i) an arbitrator or a board of arbitration for determination as provided in Part IV, or
  - (ii) a selector for determination as provided in Part V,

and upon the giving of notice to the Commission by the parties that they have so acted, the appointment of the fact finder is terminated.

Persons  
prohibited  
as fact  
finder

**17.** No person shall be appointed a fact finder who has a direct pecuniary interest in the matters coming before him or who is acting or has, within the period of six months immediately before the date of his appointment, acted as solicitor, counsel, negotiator, advisor or agent of either of the parties, but no person shall be deemed to have a direct pecuniary interest by reason only of being a ratepayer within the area of jurisdiction of the board that is a party.



**18.** Where a fact finder ceases to act by reason of withdrawal, death or otherwise before submitting his report to the Commission, the Commission shall appoint another person in his stead and such person shall commence the work of the fact finder *de novo*. Vacancy

**19.** Where the Commission appoints a fact finder, the Commission shall give written notice to each of the parties of the appointment of and the name and address of the fact finder. Notice of appointment of fact finder

**20.**—(1) Within seven days after the receipt of notice from the Commission of the appointment of the fact finder, each party shall give written notice to the fact finder and to the other party setting out all the matters that the parties have agreed upon for inclusion in an agreement and all the matters remaining in dispute between the parties. Notice of matters agreed upon and matters in dispute

(2) Where a party fails to comply with subsection 1, the fact finder may make a determination of the matters mentioned in subsection 1 and may then proceed pursuant to this Part. Where notice not given

**21.**—(1) It is the duty of a fact finder to confer with the parties and to inquire into, ascertain and make a report setting out the matters agreed upon by the parties for inclusion in an agreement and the matters remaining in dispute between the parties. Duty of fact finder

(2) A fact finder may, in his report, include his findings in respect of any matter that he considers relevant to the making of an agreement between the parties and recommend terms of settlement of the matters remaining in dispute between the parties. What report may contain

**22.** In inquiring into and ascertaining the matters remaining in dispute between the parties, the fact finder may inquire into and consider any matter that the fact finder considers relevant to the making of an agreement between the parties including, without limiting the foregoing, Matters that may be considered by fact finder

- (a) the conditions of employment in occupations outside the public teaching sector;
- (b) the effect of geographic or other local factors on the terms and conditions of employment;
- (c) the cost to the board of the proposal of either party;
- (d) the interests and welfare of the public.

Procedure  
of fact  
finder

**23.** The fact finder shall determine his own procedure under guidelines established by the Commission and, where the fact finder requests information from a party, the party shall provide the fact finder with full and complete information.

Submission  
of report of  
fact finder

**24.** The fact finder shall submit his report to the Commission within thirty days after the date of his appointment or within such longer period of time as the Commission, with the agreement of the parties, may direct and the Commission shall forthwith give a copy of the report to each of the parties.

Report not  
binding

**25.** The report of the fact finder is not binding on the parties but is made for the advice and guidance of the parties and upon receipt of the report the parties shall endeavour, in good faith, to make an agreement or to renew the agreement, as the case may be.

Assignment  
of  
assistance

**26.—**(1) Where the Commission has given a copy of the report of the fact finder to each of the parties and the Commission is of the opinion that the parties will or are likely to benefit from assistance, the Commission may assign a person to assist the parties to make or renew, as the case may be, the agreement.

Idem

(2) Where the Commission has given a copy of the report of the fact finder to each of the parties and both of the parties request assistance from the Commission, the Commission shall assign a person to assist the parties to make or renew, as the case may be, the agreement.

Where report  
confidential

**27.—**(1) If the parties make or renew, as the case may be, an agreement within fifteen days after the Commission has given a copy of the report to each of the parties, the report shall not be made public by the Commission, either of the parties or by any person.

Release  
of report

(2) If the parties do not make an agreement, or renew the agreement, as the case may be, within the period of time specified in subsection 1, the Commission shall make public the report of the fact finder.

Deferral  
of  
release

(3) Notwithstanding subsections 1 and 2, where both parties agree and the Commission approves, the Commission may defer making public the report of the fact finder for an additional period of not more than five days.

Parties  
may agree  
to refer  
matters in  
dispute

**28.—**(1) If the parties do not make or renew, as the case may be, an agreement within fifteen days after the Commission has given a copy of the report of the fact finder to

each of the parties, the parties may agree to refer all matters in dispute between them that may be provided for in an agreement to,

- (a) an arbitrator or a board of arbitration for determination as provided in Part IV; or
- (b) a selector for determination as provided in Part V.



(2) Where, pursuant to subsection 1, the parties refer all matters remaining in dispute between them that may be provided for in an agreement to an arbitrator or a board of arbitration or refer all such matters to a selector and either of the parties submits its final offer to the selector,

Effect of  
choice of  
procedure

- (a) the terms of the written collective understanding or agreement, if any, in force between the parties at the time written notice is given or deemed to be given of desire to negotiate pursuant to section 7 or at the time of the giving of notice of desire to negotiate pursuant to subsection 1 or 2 of section 11, shall not be altered until an agreement is made or renewed between the parties; and
- (b) no teacher who is a member of a branch affiliate that is a party shall engage in a strike against the board that is a party and the board shall not lock out or declare a state of lock-out to exist against members of the branch affiliate that is a party.



## PART IV

### VOLUNTARY BINDING ARBITRATION

**29.**—(1) Where the parties agree to refer all matters remaining in dispute between them that may be provided for in an agreement to an arbitrator or a board of arbitration, the parties shall jointly give written notice to the Commission that they have so agreed and the notice shall state,

Parties  
to give  
notice to  
Commission  
where  
arbitration  
agreed  
upon

- (a) that the parties agree to refer the matters to an arbitrator and,
  - (i) the date of appointment and the name and address of the arbitrator, or
  - (ii) that the parties have not appointed the arbitrator and that the parties request the Commission to appoint the arbitrator; or

(b) that the parties agree to refer the matters to a board of arbitration and,

(i) that the parties have each appointed a person as a member of the board of arbitration and shall set out the names and addresses of the two members so appointed, or

(ii) that both of the parties or one of them, as the case may be, has not appointed a person as a member of the board of arbitration and that the parties request the Commission to appoint the members or member, as the case may be, of the board,

and the notice shall state that the decision of the arbitrator or board of arbitration will be accepted by the parties as binding upon them.

Parties not  
to withdraw

(2) Except as provided in section 57, a party shall not withdraw from arbitration proceedings under this Part after notice is given to the Commission in accordance with subsection 1.

Where  
appoint-  
ments  
made by  
Commission

(3) Where the parties, in the notice mentioned in subsection 1, request the Commission to appoint the arbitrator or the members or one of the members of the board of arbitration, the Commission shall make the appointment or appointments and shall forthwith thereafter give notice thereof to the parties setting out the name and address of the appointee or the names and addresses of the appointees, as the case may be, together with the date of the appointment or appointments.

Appoint-  
ment of  
chairman  
by members

(4) Where the parties agree to refer all matters remaining in dispute between them to a board of arbitration, the two members of the board of arbitration shall, within ten days after the giving of notice of their appointment by the parties or by the Commission, as the case may be, appoint a third person to be chairman of the board of arbitration and the chairman shall forthwith give written notice to the Commission of his appointment.

Where  
Commission  
to appoint  
chairman

(5) Where the two members of the board of arbitration are unable to appoint or to agree on the appointment of the chairman of the board of arbitration within the period of time set out in subsection 4, the Commission shall appoint the chairman and shall give notice of the appointment to the



two members and to the parties and the notice shall set out the name and address of the person appointed and the date of the appointment.

**30.** No person shall be appointed an arbitrator or member or chairman of a board of arbitration who has a direct pecuniary interest in the matters coming before him or who is acting or has, within the period of six months immediately before the date of his appointment, acted as solicitor, counsel, negotiator, advisor or agent of either of the parties, but no person shall be deemed to have a direct pecuniary interest by reason only of being a ratepayer within the area of jurisdiction of the board that is a party.

Persons prohibited as arbitrator or members or chairman of board of arbitration

**31.**—(1) Where a member of a board of arbitration is unable to enter on or to carry on his duties so as to enable a decision to be rendered within the period of time required by subsection 2 or ceases to act by reason of withdrawal or death before the board of arbitration has completed its work, a replacement shall be appointed by the body that appointed the member, and the board of arbitration shall continue to function as if such member were a member of the board of arbitration from the beginning.

Vacancy

(2) Where the chairman of a board of arbitration is unable to enter on or to carry on his duties so as to enable a decision to be rendered within sixty days after his appointment or within such longer period of time as may be provided in writing by the board of arbitration and consented to by the Commission or ceases to act by reason of withdrawal or death, the Commission shall give notice thereof to the members of the board of arbitration who shall within seven days of the giving of the notice appoint a person to be the chairman and if the appointment is not so made by the members it shall be made by the Commission, and after the chairman is appointed the arbitration shall begin *de novo*.

Where chairman unable to act

(3) Where an arbitrator is unable to enter on or to carry on his duties so as to enable a decision to be rendered within sixty days after his appointment or within such longer period of time as may be provided in writing by the arbitrator and consented to by the Commission or ceases to act by reason of withdrawal or death, the Commission shall give notice thereof to the parties who shall within seven days of the giving of the notice appoint a person to be the arbitrator and if the appointment is not so made it shall be made by the Commission and after the arbitrator is appointed the arbitration shall begin *de novo*.

Where arbitrator unable to act



Notice of  
matters  
agreed  
upon and  
matters in  
dispute

**32.** Within seven days after the giving of notice that the arbitrator or the chairman of the board of arbitration, as the case may be, has been appointed, each party shall give written notice to the arbitrator or chairman and to the other party setting out all the matters that the parties have agreed upon for inclusion in an agreement and all the matters remaining in dispute between the parties.

Procedure

**33.**—(1) The arbitrator or board of arbitration shall determine his or its own procedure but shall give full opportunity to the parties to present their evidence and make their submissions.

Idem

(2) If the members of a board of arbitration are unable to agree among themselves on matters of procedure or as to the admissibility of evidence, the decision of the chairman governs.

Decision

(3) The decision of a majority of a board of arbitration is the decision of the board, but if there is no majority, the decision of the chairman is the decision of the board.

Powers of  
arbitrator  
or board of  
arbitration

**34.**—(1) The arbitrator or board of arbitration has power,

(a) to summon any person,

(i) to give oral or written evidence on oath or affirmation to the arbitrator or board of arbitration, or

(ii) to produce in evidence for the arbitrator or board of arbitration such documents and other things as the arbitrator or board of arbitration may specify;

(b) to administer oaths and affirmations;

(c) to accept for or exclude from consideration any oral testimony, document or other thing, whether admissible in a court of law or not.

Stated case  
for contempt  
for failure  
to attend,  
etc.

(2) Where any person without lawful excuse,

(a) on being duly summoned under subsection 1 as a witness before the arbitrator or board of arbitration, as the case may be, makes default in so attending;

(b) being in attendance as a witness before the arbitrator or board of arbitration, as the case may be,

refuses to take an oath or to make an affirmation legally required by the arbitrator or board of arbitration to be taken or made, or to produce any document or thing in his power or control legally required by the arbitrator or board of arbitration to be produced to him or it, or to answer any question to which the arbitrator or board of arbitration may legally require an answer; or

- (c) does any other thing that would, if the arbitrator or board of arbitration had been a court of law having power to commit for contempt, have been contempt of that court,

the arbitrator or board of arbitration may state a case to the Divisional Court setting out the facts and that court may, on the application of the arbitrator or board of arbitration, inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court.

**35.**—(1) The arbitrator or board of arbitration shall inquire into, consider and decide on all matters remaining in dispute between the parties. Duty of arbitrator or board of arbitration

(2) In the conduct of proceedings before him or it and in reaching a decision in respect of a matter in dispute, the arbitrator or board of arbitration may inquire into and consider any matter that the arbitrator or board of arbitration considers relevant to the making of an agreement between the parties. Matters that may be considered by arbitrator or board of arbitration

**36.**—(1) The arbitrator or board of arbitration shall complete the consideration of all matters in dispute between the parties and shall report in writing his or its decision on the matters to the parties and to the Commission within sixty days after the giving of notice of the appointment of the arbitrator or of the appointment of the chairman of the board of arbitration, as the case may be, or within such longer period of time as may be provided in writing by the arbitrator or board of arbitration and consented to by the Commission. Time for report of arbitrator or board of arbitration

(2) The decision of the arbitrator or board of arbitration is binding upon the parties and they shall comply in good faith with the decision. Effect of decision

Preparation  
and  
execution of  
document by  
parties

**37.**—(1) Within thirty days after receipt by the parties of the report of the arbitrator or board of arbitration, as the case may be, the parties shall prepare a document giving effect to all matters agreed upon by the parties and the decision of the arbitrator or board of arbitration and shall execute the document and thereupon it constitutes an agreement.

Where  
arbitrator  
or board of  
arbitration  
to prepare  
document

(2) If the parties fail to execute the document within the period of time mentioned in subsection 1, the arbitrator or board of arbitration, as the case may be, shall prepare the document and submit it to the parties and shall fix the time within which and the place where the parties shall execute the document.

Failure  
to execute  
document

(3) If the parties or either of them fail to execute the document within the time fixed by the arbitrator or the board of arbitration, the document shall be deemed to be in effect as though it had been executed by the parties and the document thereupon constitutes an agreement.

## PART V

### FINAL OFFER SELECTION

Parties  
to give  
notice to  
Commission  
where  
selection  
agreed  
upon

**38.**—(1) Where the parties agree to refer all matters remaining in dispute between them that may be provided for in an agreement to a selector, the parties shall jointly give written notice to the Commission that they have so agreed and the notice shall state that the parties agree to refer the matters to a selector and,

- (a) the date of appointment and the name and address of the selector; or
- (b) that the parties have not appointed the selector and that the parties request the Commission to appoint the selector.

Statement  
by parties

(2) The parties shall, together with the notice mentioned in subsection 1, give to the Commission a written statement signed by the parties setting out that neither party will withdraw from the proceedings after the final offers of the parties have been submitted to the selector and that the decision of the selector will be accepted by the parties as binding upon them.



Parties not  
to withdraw

(3) Except as provided in section 57, where the parties give to the Commission a written statement in accordance with

subsection 2, a party shall not withdraw from the proceedings after the final offer of either of the parties has been submitted to the selector.

(4) Where the parties request the Commission to appoint the selector, the Commission shall make the appointment and give notice of the appointment of the selector to the parties and the notice shall set out the name and address of the person appointed and the date of the appointment.

Where  
Commission  
appoints  
selector

**39.** No person shall be appointed a selector who has a direct pecuniary interest in the matters coming before him or who is acting or has, within the period of six months immediately before the date of his appointment, acted as solicitor, counsel, negotiator, advisor or agent of either of the parties, but no person shall be deemed to have a direct pecuniary interest by reason only of being a ratepayer within the area of jurisdiction of the board that is a party.

Persons  
prohibited  
as selector

**40.** Where a selector is unable to enter on or to carry on his duties so as to enable a decision to be rendered within the time specified by this Act or such longer period of time as may be provided in writing by the selector and consented to by the Commission or ceases to act by reason of withdrawal or death, the Commission shall give notice thereof to the parties who shall within seven days of the giving of the notice appoint a person to be the selector, and if the appointment is not so made by the parties it shall be made by the Commission, and after the selector is appointed, the selection procedure shall begin *de novo*.

Selector  
unable to  
act

**41.** Within seven days after the giving of notice that the selector has been appointed, the parties shall jointly give written notice to the selector setting out all the matters that the parties have agreed upon for inclusion in an agreement and all the matters remaining in dispute between the parties.

Notice of  
matters  
agreed  
upon and  
matters in  
dispute

**42.** Within fifteen days after the giving of notice that the selector has been appointed, each party shall give written notice to the selector setting out the final offer of the party on all the matters remaining in dispute between the parties and may submit with the notice a written statement in support of the final offer set out in the notice.

Notice of  
final offer

**43.** Upon receiving the notices of the parties setting out the final offer of each party, the selector shall forthwith give to each party a copy of the notice setting out the final offer of the opposite party on all the matters remaining

Final offer  
of opposite  
party



in dispute between the parties together with a copy of the statement, if any, of the opposite party submitted in support of the final offer of the opposite party.

Written  
response

**44.** Each party may, within ten days after being given a copy of the final offer and supporting statement, if any, of the opposite party, give to the selector a written reply and the selector shall forthwith give a copy of the reply of each party to the opposite party.

Hearing

**45.** Within fifteen days after each party has been given a copy of the final offer and supporting statement, if any, of the opposite party, or within such longer period of time as may be provided in writing by the selector and consented to by the Commission, the selector shall hold a hearing in respect of the matters remaining in dispute between the parties and may, before making a selection, hold a further hearing or hearings.

Parties may  
dispense  
with hearing

**46.** The parties may agree to dispense with a hearing by the selector and in such case may jointly give written notice to the selector that they have so agreed, and, the selector upon receipt of the notice, shall not hold a hearing but shall proceed to his decision.

Procedure

**47.—**(1) The selector shall determine his own procedure but, in holding a hearing, shall give full opportunity to the parties to present their evidence and make their submissions.

Powers of  
selector

(2) The selector has power,

(a) to summon any person,

(i) to give oral or written evidence on oath or affirmation to the selector, or

(ii) to produce in evidence for the selector such documents and other things as the selector may specify;

(b) to administer oaths and affirmations;

(c) to accept for or exclude from consideration any oral testimony, document or other thing, whether admissible in a court of law or not.



Stated case  
for contempt  
for failure  
to attend,  
etc.

(3) Where any person without lawful excuse,

(a) on being duly summoned under subsection 2 as a witness before the selector makes default in so attending;



- (b) being in attendance as a witness before the selector, refuses to take an oath or to make an affirmation legally required by the selector to be taken or made, or to produce any document or thing in his power or control legally required by the selector to be produced to him, or to answer any question to which the selector may legally require an answer; or
- (c) does any other thing that would, if the selector had been a court of law having power to commit for contempt, have been contempt of that court,

the selector may state a case to the Divisional Court setting out the facts and that court may, on the application of the selector, inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court.

**48.** The selector shall, within fifteen days after the conclusion of the hearing or hearings or within fifteen days after the giving of the notice by the parties that they have agreed to dispense with a hearing, as the case may be, or within such longer period of time as may be provided in writing by the selector and consented to by the Commission, make a decision selecting all of one of the final offers on all matters remaining in dispute between the parties given to the selector by one or the other of the parties.

Selection  
of final  
offer

**49.** The decision of the selector is binding upon the parties and they shall comply in good faith with the decision.

Effect of  
decision

**50.—(1)** Within thirty days after receipt of notice of the decision of the selector, the parties shall prepare a document giving effect to all matters agreed upon by the parties and the decision of the selector and shall execute the document and thereupon it constitutes an agreement.

Preparation  
and execu-  
tion of  
document  
by parties

(2) If the parties fail to execute the document within the period of time mentioned in subsection 1, the selector shall prepare the document and submit it to the parties and shall fix the time within which and the place where the parties shall execute the document.

Where  
selector  
to prepare  
document

(3) If the parties or either of them fail to execute the document within the time fixed by the selector, the document shall be deemed to be in effect as though it had been executed by the parties and the document thereupon constitutes an agreement.

Failure  
to execute  
document

## PART VI

## AGREEMENTS

Term of  
agreement

**51.**—(1) Every agreement shall,

- (a) provide for a term of operation of not less than one year;
- (b) state that it is effective on and after the 1st day of September in the year in which it is to come into operation; and
- (c) state that it expires on the 31st day of August in the year in which it ceases to operate.

Exception

(2) Notwithstanding subsection 1, where a written collective understanding is expressed to expire on or about the 31st day of December, 1975, the parties may make an agreement expressed to expire on the 31st day of August, 1976.

Idem

(3) Notwithstanding subsection 1, where a written collective understanding is expressed to expire on or about the 31st day of December, 1976, the parties may make an agreement expressed to expire on the 31st day of August, 1977.

Conflict

**52.**—(1) Where a conflict appears between a provision of an agreement and a provision of an Act or regulation, the provision of the Act or regulation prevails.

Application  
of  
B.N.A.

(2) The provisions of this Act shall not be construed as to prejudicially affect the rights and privileges with respect to the employment of teachers enjoyed by Roman Catholic and Protestant separate school boards under *The British North America Act, 1867*.

Resolution  
of matters  
arising  
out of  
agreement

**53.**—(1) Unless an agreement otherwise provides for the final and binding settlement of all differences between the parties arising from the interpretation, application, administration or alleged contravention of the agreement, the agreement is deemed to include the following provision:

Where a difference arises between the parties relating to the interpretation, application or administration of this agreement, or where an allegation is made that this agreement has been contravened, either of the parties may, after exhausting any grievance procedure established

by this agreement, notify the other party in writing of its desire to submit the difference or allegation to arbitration and the notice shall contain the name of the first party's appointee to an arbitration board. The recipient of the notice shall within five days inform the other party either that it accepts the other party's appointee as a single arbitrator or inform the other party of the name of its appointee to the arbitration board. Where two appointees are so selected they shall, within five days of the appointment of the second of them, appoint a third person who shall be the chairman. If the recipient of the notice fails to appoint an arbitrator or if the two appointees fail to agree upon a chairman within the time limited, the appointment shall be made by the Commission upon the request of either party. The single arbitrator or the arbitration board, as the case may be, shall hear and determine the difference or allegation and shall issue a decision and the decision is final and binding upon the parties and upon any employee or employer affected by it. The decision of a majority is the decision of the arbitration board, but, if there is no majority, the decision of the chairman governs. The arbitrator or arbitration board, as the case may be, shall not by his or its decision add to, delete from, modify or otherwise amend the provisions of this agreement.



(2) Where a party or a teacher fails to comply with any of the terms of a decision of an arbitrator or board of arbitration, any party or any teacher affected by the decision may file in the office of the Registrar of the Supreme Court a copy of the decision of the arbitrator or board of arbitration, exclusive of the reasons therefor and certified by the arbitrator or the chairman of the board of arbitration to be a true copy of the decision, whereupon the decision shall be entered in the same way as a judgment or order of that court and is enforceable as such.

Enforcement  
of  
arbitration  
decision



**54.**—(1) Every agreement shall provide that there will be no strike or lock-out during the term of the agreement or of any renewal of the agreement.

Provision  
against  
strikes, etc.

(2) If an agreement does not contain the provision mentioned in subsection 1, the agreement shall be deemed to contain the following provision:

Statutory  
provision

“There shall be no strike or lock-out during the term of this agreement or of any renewal of this agreement”.

(3) For the purposes of subsections 1 and 2, a written collective understanding shall be deemed to be an agreement.

Where  
written  
collective  
understand-  
ing deemed to  
be agreement

Agreement  
to form  
part of  
contract of  
employment

**55.**—(1) An agreement between a board and a branch affiliate shall be deemed to form part of the contract of employment between the board and each teacher who is a member of the branch affiliate.

Conflict

(2) Where a conflict appears between a provision of any other part of a contract of employment and a provision of the agreement referred to in subsection 1, the provision of the agreement prevails, but no agreement shall conflict with the form of contract prescribed by the regulations under *The Education Act, 1974*.

1974, c. 109

Notice of  
agreement

**56.** Where the parties agree on all the matters to be included in an agreement, whether during or at the conclusion of negotiations or other proceedings under this Act, the chief executive officer of the board or of each of the boards, as the case may be, that is a party shall forthwith give notice thereof to the Commission.

Where  
agreement  
reached

**57.** Where the parties agree on all the matters to be included in an agreement, whether during or at the conclusion of negotiations or other proceedings under this Act, they shall prepare a document incorporating all the matters agreed upon and shall execute the document and the document thereupon constitutes an agreement.

Notice to  
Commission  
of execution  
of agreement

**58.** Upon the execution of an agreement, each party to the agreement shall forthwith give notice thereof, together with a copy of the agreement, to the Commission.

Binding  
effect of  
agreement

**59.** An agreement is binding upon the board and upon the branch affiliate that is a party to it and upon the teachers employed by the board who are members of the branch affiliate.

## PART VII

### EDUCATION RELATIONS COMMISSION

Commission  
established

**60.**—(1) There shall be a commission to be known as the Education Relations Commission composed of five persons who shall be appointed by the Lieutenant Governor in Council.

Chairman  
and vice-  
chairman

(2) The Lieutenant Governor in Council shall designate a chairman and a vice-chairman from among the members of the Commission.

Acting  
chairman

(3) In the case of the absence or inability to act of the chairman or of there being a vacancy in the office of the chairman, the vice-chairman shall act as and have all the powers of the chairman and in the absence of the chairman



and, vice-chairman from any meeting of the Commission, the members of the Commission present at the meeting shall appoint an acting chairman who shall act as and have all the powers of the chairman during the meeting.

(4) The members of the Commission shall be appointed for a term of one, two or three years so that as nearly as possible one-third of the members shall retire each year. Term of office


(5) Every vacancy on the Commission caused by the death, resignation or incapacity of a member may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member. Vacancy

(6) Each of the members of the Commission is eligible for reappointment upon the expiration of his term of office. Reappointment


(7) Three members of the Commission constitute a quorum and are sufficient for the exercise of all the authority of the Commission. Quorum

(8) The powers of the Commission shall be exercised by resolution and the Commission may pass resolutions governing the calling of and the proceedings at meetings and specifying the powers and duties of employees of the Commission and generally dealing with the carrying out of its duties. Exercising powers

(9) The members of the Commission shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council. Remuneration

 (10) Subject to the approval of the Lieutenant Governor in Council, the Commission may, Officers, staff, etc.

(a) establish job classifications, salary ranges and terms and conditions of employment for its employees; and

(b) appoint and pay such employees as are considered proper. 

(11) *The Public Service Superannuation Act* applies to the permanent employees of the Commission as though the Commission had been designated by the Lieutenant Governor in Council under section 27 of that Act. R.S.O. 1970, c. 387, applicable

(12) The Commission may engage persons other than those employed pursuant to subsection 10 to provide professional, technical or other assistance to or on behalf of the Commission, Professional and other assistance



and may prescribe the terms of engagement and provide for payment of the remuneration and expenses of such persons.

Duties of  
Commission

**61.**—(1) It is the duty of the Commission,

- (a) to carry out the duties imposed on it by this Act and such other functions as may, in the opinion of the Commission, be necessary to carry out the intent and purpose of this Act;
- (b) to maintain an awareness of negotiations between teachers and boards;
- (c) to compile statistical information on the supply, distribution, professional activities and salaries of teachers;
- (d) to provide such assistance to parties as may facilitate the making or renewing of agreements;
- (e) to select and, where necessary, to train persons who may act as mediators, fact finders, arbitrators or selectors;
- (f) to determine, at the request of either party or in the exercise of its discretion, whether or not either of the parties is or was negotiating in good faith and making every reasonable effort to make or renew an agreement;
- (g) to determine the manner of conducting and to supervise votes by secret ballot pursuant to this Act; and
- (h) to advise the Lieutenant Governor in Council when, in the opinion of the Commission, the continuance of a strike, lock-out or closing of a school or schools will place in jeopardy the successful completion of courses of study by the students affected by the strike, lock-out or closing of a school or schools.

Provision of  
information

(2) The Commission may request a board to provide information necessary to compile the statistical information referred to in subsection 1 and a board shall comply with such a request within a reasonable period of time.

Annual  
report

(3) The Commission shall annually prepare a report on the affairs of the Commission for the preceding year and the report shall be tabled in the Legislature.

**62.** No member of the Commission shall be required to give testimony in any proceeding under this Act with regard to information obtained by him in the discharge of his duties as a member of the Commission. Testimony  
by member  
of  
Commission

**63.** The moneys required for the purposes of the Commission shall, until the 31st day of March, 1976 and subject to the approval of the Lieutenant Governor in Council, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature. Moneys

## PART VIII

### STRIKES AND LOCK-OUTS

**64.—(1)** No teacher shall take part in a strike against the board that employs the teacher unless, Notice of  
strike

- (a) there is no agreement in operation that is deemed under this Act to form part of the contract of employment between the board and the teacher;
- (b) notice of desire to negotiate to make or renew an agreement has been given by either party;
- (c) all the matters remaining in dispute between the board and the branch affiliate that represents the teacher have been referred to a fact finder and fifteen days have elapsed after the Commission has made public the report of the fact finder;
- (d) the offer of the board in respect of all matters agreed upon by the parties and in respect of all matters remaining in dispute between the parties last received by the branch affiliate that represents the teacher is submitted to and rejected by the teachers composing the branch affiliate by a vote by secret ballot conducted under the supervision of and in the manner determined by the Commission;
- (e) the teachers composing the branch affiliate that represents the teacher have voted, not earlier than the vote referred to in clause *d* and not before the end of the fifteen day period referred to in clause *c*, in favour of a strike by a vote by secret ballot conducted under the supervision of and in the manner determined by the Commission; and
- (f) after a vote in favour of a strike in accordance with clause *e*, the branch affiliate that represents the teacher gives to the board written notice of the strike and of the date on which the strike

will commence at least five days before the commencement of the strike.

Where written collective understanding

(2) Where a written collective understanding is in effect immediately before the coming into force of this Act, no teacher shall take part in a strike against the board unless the requirements of clauses *c*, *d*, *e* and *f* of subsection 1 are complied with.

Where written collective understanding deemed to be agreement

(3) For the purpose of subsection 1, a written collective understanding is deemed to be an agreement mentioned in clause *a* of subsection 1.

Principals and vice-principals

**65.**—(1) A principal and a vice-principal shall be considered essential employees and shall not take part in a strike vote or a strike.

Idem, membership in branch affiliate

(2) Notwithstanding subsection 1, a principal and a vice-principal shall be members of a branch affiliate.

Unlawful strike

**66.**—(1) The Federation shall not and no affiliate or branch affiliate shall call or authorize or threaten to call or authorize an unlawful strike.

Idem

(2) No officer, official or agent of the Federation, an affiliate or a branch affiliate or member of a branch affiliate shall counsel, procure, support or encourage an unlawful strike or threaten an unlawful strike.

Unlawful lock-out

**67.**—(1) The Council shall not and no member association or board shall call or authorize or threaten to call or authorize an unlawful lock-out.

Idem

(2) No officer, official or agent of the Council, a member association or a board or member of a board shall counsel, procure, support or encourage an unlawful lock-out or threaten an unlawful lock-out.

Declaration of unlawful strike

**68.**—(1) Where the Federation, an affiliate or a branch affiliate calls or authorizes a strike or teachers take part in a strike against a board that the board, a member association, the Council or any person normally resident within the jurisdiction of the board alleges is unlawful, the board, member association, Council or person may apply to the Ontario Labour Relations Board for a declaration that the strike is unlawful, and the Board may make the declaration.

Declaration of unlawful lock-out

(2) Where the Council, a member association or a board calls or authorizes a lock-out of members of a branch affiliate that the branch affiliate, an affiliate, the Federation or any person normally resident within the jurisdiction of the board

alleges is unlawful, the branch affiliate, affiliate, Federation or person may apply to the Ontario Labour Relations Board for a declaration that the lock-out is unlawful, and the Board may make the declaration.

(3) Where the Ontario Labour Relations Board makes a declaration under subsection 1 or 2, the Board in its discretion may, in addition, direct what action, if any, a person, teacher, branch affiliate, affiliate, the Federation, a board, member association or the Council and their officers, officials or agents shall do or refrain from doing with respect to the unlawful strike or unlawful lock-out. Direction by O.L.R.B.

(4) The Ontario Labour Relations Board shall file in the office of the Registrar of the Supreme Court a copy of a direction made under subsection 3, exclusive of the reasons therefor, whereupon the direction shall be entered in the same way as a judgment or order of the court and is enforceable as such. Enforcement of direction by S.C.O.

**69.**—(1) Where a lawful strike takes place against a board, Lock-out the board may lock out or declare a state of lock-out to exist against all members, other than principals or vice-principals, of the branch affiliate that represents teachers engaged in the strike.

(2) No board shall lock out or declare a state of lock-out Idem to exist or close a school or schools unless and until the proposal of the branch affiliate in respect of all matters agreed upon by the parties and in respect of all matters remaining in dispute between the parties last received by the board has been presented to a meeting of the board in public session.

(3) Except as provided in subsection 1, a board shall not Idem lock out a teacher.

(4) Where a lawful strike takes place against a board, Closing of school the board may close a school or schools where the board is of the opinion that,

- (a) the safety of students may be endangered;
- (b) the school building or the equipment or supplies therein may not be adequately protected during the strike; or
- (c) the strike will substantially interfere with the operation of the school.

Payment  
of teachers

(5) A teacher shall not be paid his salary in respect of the days on which,

- (a) he takes part in a strike, other than a strike as defined in subclause ii of clause 1 of section 1;
- (b) he is locked out; or
- (c) the schools are closed pursuant to subsection 4.

Resumption  
of strike  
or new strike

(6) Where a lawful strike is terminated without an agreement coming into effect, no teacher shall take part in a resumption of the strike or take part in a new strike except after the provisions of clauses *d*, *e* and *f* of subsection 1 of section 64 have again been complied with in respect of such resumption or new strike.

Application  
of section  
1974, c. 109

(7) The provisions of this section apply notwithstanding any provision of *The Education Act, 1974*.

Participa-  
tion in  
lawful  
strike

**70.** The contract of employment or position of a teacher shall not be terminated by reason of his participation in a lawful strike.

Resignation,  
etc.,  
by teacher

**71.** Nothing in this Act precludes a teacher,

- (a) from terminating his employment with a board in good faith in accordance with the provisions of his contract of employment;
- (b) from withdrawing a voluntary service in good faith on an individual basis.

## PART IX

### MISCELLANEOUS

Copies of  
notice to be  
given to  
Commission

**72.** Where, under this Act, a party is required to give notice to another party, the party giving the notice shall also within the same time limit, if any, give a copy of the notice to the Commission.

Decisions,  
etc., of  
Commission  
and others  
not subject  
to review

**73.** Except in respect of section 52, no decision, order, determination, direction, declaration or ruling of the Commission, a fact finder, an arbitrator or board of arbitration, a selector or the Ontario Labour Relations Board shall be questioned or reviewed in any court, and no order shall be made or process entered, or proceedings taken in, any court, whether by way of injunction, declaratory judgment,



certiorari, mandamus, prohibition, quo warranto, application for judicial review or otherwise, to question, review, prohibit or restrain the Commission, fact finder, arbitrator or board of arbitration, selector or the Ontario Labour Relations Board or the proceedings of any of them.

**74.** Any notice or document required or authorized by <sup>Service of notice</sup> this Act to be given shall,


- (a) where it is to be given to the Commission, be delivered to the office of the Commission;
- (b) where it is to be given to a board, be delivered to the office of the board;
- (c) where it is to be given to a branch affiliate, be delivered to an officer of the branch affiliate;
- (d) where it is to be given to an affiliate, the Council, the Federation or a member association, be delivered to the office of the affiliate, the Council, the Federation or the member association, as the case requires;
- (e) where it is to be given to an arbitrator or selector, be delivered to the arbitrator or selector; and
- (f) where it is to be given to a board of arbitration, be delivered to the chairman or either of the other two members of the board of arbitration.

**75.**—(1) The expenditures incurred by a party in respect <sup>Costs</sup> of a person appointed or retained by the party for the purpose of making or renewing an agreement shall be borne by the party and all other expenses, including fees for a single arbitrator, a selector or a chairman of a board of arbitration shall be shared equally by the parties and such expenditures and fees shall be paid within sixty days after the agreement or renewal of agreement is executed or is deemed in effect as though it had been executed by the parties.


(2) The fees and expenses, if any, of persons assigned by <sup>Idem</sup> the Commission to assist parties to make or renew an agreement and of fact finders appointed by the Commission shall be paid by the Commission.

**76.** Where the Commission so directs, a branch affiliate shall file with the Commission, within the time prescribed in the direction, a statement signed by its president or secretary setting out the names and addresses of its officers. <sup>Statement as to officers of branch affiliate</sup>

Where vote  
by secret  
ballot  
required

 77.—(1) Subject to subsection 2, a vote conducted by a branch affiliate to give approval to the terms of an agreement shall be a vote by secret ballot.

Idem

(2) A vote conducted by a branch affiliate for the purposes of subsection 1 of section 64 or for the purpose of giving approval to the terms of an agreement after the commencement of a strike shall be a vote by secret ballot conducted under the supervision of and in the manner determined by the Commission. 

Contraven-  
tion by  
teacher or  
trustee

78.—(1) Every person who contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 for each day upon which the contravention occurs or continues.

Contraven-  
tion by  
Council or  
Federation

(2) The Council and every member association and every board and the Federation and every affiliate and every branch affiliate that contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$10,000 for each day upon which such contravention occurs or continues.

Contraven-  
tion of  
decision,  
etc.

(3) The contravention of a decision, order, determination, direction, declaration or ruling made under this Act is deemed, for the purposes of this section, to be a contravention of this Act.

Where  
officers also  
guilty of  
offence

(4) Where the Council or a member association or the Federation or an affiliate or a branch affiliate is guilty of an offence under this Act, every officer or representative thereof, and where a board is guilty of an offence under this Act every member of the board, who assents to the commission of the offence shall be deemed to be a party to and guilty of the offence and is liable to a fine under subsection 1 as if he had been convicted of an offence under subsection 1.

Information

(5) An information in respect of a contravention of any provision of this Act may be for one or more offences and no information, warrant, conviction or other proceedings in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences.

Consent to  
prosecution

(6) No prosecution for an offence under this Act shall be instituted except with the consent of the Ontario Labour Relations Board which may only be granted after affording an opportunity to the person or body seeking the consent and the person or body sought to be prosecuted to be heard.



(7) The Ontario Labour Relations Board shall determine its own practice and procedure but shall give full opportunity to the parties to any proceedings to present their evidence and to make their submissions, and the Ontario Labour Relations Board may, subject to the approval of the Lieutenant Governor in Council, make rules governing its practice and procedure and the exercise of its powers and prescribing such forms as are considered advisable.

Practice  
and  
procedure  
of O.L.R.B.

(8) The decision of the majority of the members of the Ontario Labour Relations Board present and constituting a quorum is the decision of the Ontario Labour Relations Board, but, if there is no majority, the decision of the chairman or vice-chairman governs.

Decision  
of  
O.L.R.B.



**79.** A prosecution for an offence under this Act may be instituted against any body, association or organization in the name of the body, association or organization whether or not the body, association or organization is a body corporate and, for the purposes of any such prosecution, any unincorporated body, association or organization shall be deemed to be a body corporate.

Style of  
prosecution

**80.** Any act or thing done or omitted by an officer, official or agent of the Federation, an affiliate, a branch affiliate, the Council, a member association or a board or by a member of a board within the apparent scope of his authority to act on behalf of the Federation, affiliate, branch affiliate, Council, member association or board shall be deemed to be an act or thing done or omitted by the Federation, affiliate, branch affiliate, Council, member association or board, as the case may be.

Vicarious  
responsi-  
bility



**81.—(1)** *The Arbitrations Act* does not apply to proceedings under this Act.

R.S.O. 1970,  
c. 25 not  
to apply

(2) *The Statutory Powers Procedure Act, 1971*, does not apply to proceedings under this Act other than in respect of a determination referred to in clause *f* of subsection 1 of section 61.

Idem  
1971, c. 47

(3) Notwithstanding subsection 2, but subject to section 73, *The Statutory Powers Procedure Act, 1971* applies to proceedings before the Ontario Labour Relations Board under this Act.

Idem



**82.** Notwithstanding any other provision of this Act,

Compella-  
bility of  
witnesses

(a) the Minister of Education;

(b) the Deputy Minister of Education;

(c) the chairman, a vice-chairman or a member of the Ontario Labour Relations Board;

(d) an arbitrator or member or chairman of a board of arbitration; or

(e) a selector,

is not a compellable witness in any proceeding under this Act.

Commence-  
ment

**83.** This Act comes into force on the day it receives Royal Assent.

Short title

**84.** This Act may be cited as *The School Boards and Teachers Collective Negotiations Act, 1975*.









An Act respecting the Negotiation of  
Collective Agreements between School  
Boards and Teachers

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*1st Reading*

June 3rd, 1975

*2nd Reading*

June 17th, 1975

*3rd Reading*

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THE HON. T. L. WELLS  
Minister of Education

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*(Reprinted as amended by the  
Social Development Committee)*

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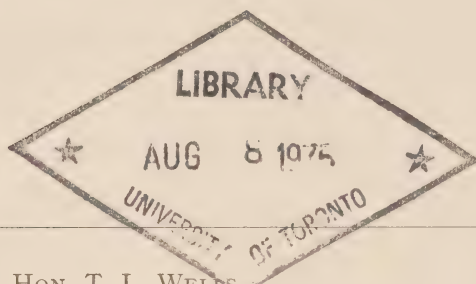
**BILL 100**

Publications  
Government Bill

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

**Ontario. Legislative Assembly**

**An Act respecting  
the Negotiation of Collective Agreements  
between School Boards and Teachers**



THE HON. T. L. WELLS  
Minister of Education

*(Reprinted as amended by the Committee of the Whole House)*

TORONTO

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#### EXPLANATORY NOTE

The Bill provides procedures for the making and renewing of agreements between a school board and its teachers. The Bill provides for negotiations between a school board and a branch affiliate. The term "branch affiliate" is defined in the Bill.

Provision is also made for the appointment of a fact finder if negotiations come to an impasse and for a choice by the parties of voluntary binding arbitration or final offer selection.

The Bill prohibits strike action unless no agreement is in force, notice of desire to negotiate has been given, the fact finding procedure has been carried out, the last offer of the board has been rejected by a vote by secret ballot of the teachers, a strike vote has been taken and at least five days notice of the strike and of the date on which the strike will commence has been given by the branch affiliate to the school board.

The Education Relations Commission is established with, among other duties, those of monitoring negotiations between teachers and boards, the compiling of statistical information and the assisting of parties in the making and renewing of agreements.

BILL 100

1975

**An Act respecting  
the Negotiation of Collective Agreements  
between School Boards and Teachers**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

GENERAL

**1.** In this Act,

Interpre-  
tation

(a) "affiliate" means one of the following bodies:

1. L'Association des Enseignants Franco-Ontariens.
2. The Federation of Women Teachers' Associations of Ontario.
3. The Ontario English Catholic Teachers' Association.
4. The Ontario Public School Men Teachers' Federation.
5. The Ontario Secondary School Teachers' Federation;

(b) "agreement" means a written collective agreement made after the coming into force of and pursuant to this Act between a board and a branch affiliate or branch affiliates or between two or more boards and two or more branch affiliates covering matters negotiable under this Act;

(c) "board" means a board of education, public school board, secondary school board, Roman Catholic

separate school board or Protestant separate school board and includes a divisional board of education;

- (d) "branch affiliate" means an organization composed of all the teachers employed by a board who are members of the same affiliate;
- (e) "Commission" means the Education Relations Commission established under this Act;
- (f) "Council" means the Ontario School Trustees' Council;
- (g) "Federation" means the Ontario Teachers' Federation;
- (h) "lock-out" means the suspension of employment of, or the refusal to assign work to, teachers other than principals and vice-principals in a school or schools by a board with the view to compelling the cessation of a strike or preventing the resumption of a strike or with the view to inducing or persuading the branch affiliate that represents the teachers to enter into or renew an agreement;
- (i) "member association" means one of the following bodies:
  1. L'Association Francaise des Conseils Scolaires de l'Ontario.
  2. Northern Ontario Public and Secondary School Trustees' Association.
  3. Ontario Public School Trustees' Association.
  4. Ontario Separate School Trustees' Association;
- (j) "party" means a board or a branch affiliate;
- (k) "principal" means a principal as defined in *The Education Act, 1974*;
- (l) "strike" includes any action or activity by teachers in combination or in concert or in accordance with a common understanding that is designed to curtail, restrict, limit or interfere with the operation or functioning of a school program or school programs or of a school or schools including, without limiting the foregoing,

- (i) withdrawal of services,
- (ii) work to rule,
- (iii) the giving of notice to terminate contracts of employment;
- (m) "teacher" means a person,
  - (i) who holds a valid certificate of qualification as a teacher in an elementary or secondary school in Ontario,
  - (ii) who holds a letter of standing granted by the Minister under *The Education Act, 1974*,<sup>1974, c. 109</sup> or
  - (iii) in respect of whom the Minister has granted a letter of permission under *The Education Act, 1974*,

and who is employed by a board under a contract of employment as a teacher in the form of contract prescribed by the regulations under *The Education Act, 1974*, but does not include a supervisory officer as defined in *The Education Act, 1974*, an instructor in a teacher-training institution or a person employed to teach in a school for a period not exceeding one month;

- (n) "vice-principal" means a vice-principal within the meaning of the regulations under *The Education Act, 1974*;
- (o) "vote by secret ballot" means a vote by ballots cast in such a manner that a person expressing his choice cannot be identified with the choice expressed;
- (p) "written collective understanding" means a written collective understanding made before the coming into force of this Act between a board and teachers or the representative or representatives of teachers employed by the board in respect of any term or condition of employment.

**2.** The purpose of this Act is the furthering of harmonious relations between boards and teachers by providing for the making and renewing of agreements and by providing for the relations between boards and teachers in respect of agreements.

Purpose  
of Act



Application  
of Act

**3.—(1)** This Act applies to all collective negotiations between boards and teachers in respect of any term or condition of employment put forward by either party for the purpose of making or renewing an agreement.

Negotiations  
to be in  
accordance  
with Act

**(2)** No such collective negotiations shall be carried on between a board and the teachers employed by the board except in accordance with this Act.

Joint  
negotiations

**4.—(1)** In negotiations and procedures under this Act to make or renew an agreement or agreements, two or more boards may act jointly as a party and two or more branch affiliates may act jointly as a party, where both the boards and branch affiliates involved so agree, to make or renew an agreement between the boards and the branch affiliates or to make or renew a separate agreement between each of the boards and a branch affiliate that represents teachers employed by the board.

Idem

**(2)** A separate agreement between a board and a branch affiliate made pursuant to subsection 1 may include terms and conditions of employment in addition to and consistent with those terms and conditions which are part of the agreement between all the boards acting as a party and all the branch affiliates acting as a party.

Branch  
affiliates  
may  
negotiate  
as one party

**(3)** Notwithstanding subsection 1, two or more branch affiliates may act as one party in negotiations and procedures under this Act to make or renew an agreement or agreements with the same board.

Agreements  
between  
individual  
boards and  
branch  
affiliates

**(4)** Where two or more boards act jointly as a party and two or more branch affiliates act jointly as a party pursuant to subsection 1, any negotiations and proceedings and resulting agreement pursuant to subsection 2 between one of the boards and a branch affiliate shall be deemed to be part of the joint negotiations and agreement in accordance with subsection 1.

Continuation  
of agreement  
to act jointly

**(5)** A board or branch affiliate that agrees to act jointly with another board or branch affiliate pursuant to subsection 1, shall continue to act jointly with such other board or branch affiliate until an agreement is made or renewed between the parties.

Repre-  
sentation of  
teachers  
by branch  
affiliate

**5.** A branch affiliate shall, in negotiations and procedures under this Act, represent all the teachers composing its membership.

Negotiating  
group

**6.** In negotiations to make or renew an agreement, a party shall be represented by only one group of persons but may at any time increase, decrease or change the composition of the group.

**7.—**(1) Where collective negotiations for the renewal of a written collective understanding that expires on or after the 31st day of August, 1975 are being carried on between a board and the teachers employed by the board immediately before this Act comes into force, the board and the branch affiliate that is composed of and represents only teachers employed by the board shall continue the negotiations in good faith with the view to making an agreement in accordance with this Act and written notice of desire to negotiate with the view to making an agreement shall be deemed to have been given pursuant to this Act. Transitional provision

(2) Where a written collective understanding is in effect immediately before the coming into force of this Act, a branch affiliate may give written notice to a board or the board may give written notice to the branch affiliate, Giving of notice where written collective understanding in effect

- (a) in the case of a written collective understanding that expires on the 31st day of August, within the month of January in the year in which the understanding expires; or
- (b) in the case of a written collective understanding that expires on the 31st day of December, within the month of May in the year in which the understanding expires,

of its desire to negotiate with the view to making an agreement.

(3) Where a written collective understanding referred to in subsection 2 is expressed to expire in the year 1975 and negotiations are not being carried on immediately before the coming into force of this Act to renew the written collective understanding, a branch affiliate may give written notice to a board or the board may give written notice to the branch affiliate within thirty days after the coming into force of this Act of its desire to negotiate with the view to making an agreement. Idem

(4) Where the notice mentioned in subsection 3 is not given within the period of time provided therein, the written collective understanding mentioned in subsection 3 shall be deemed to be renewed and to continue in force for a further period of one year from the day on which it would have expired. Where notice not given

**8.** At any time during negotiations or procedures under this Act, Parties may obtain assistance

- (a) a board that is a party may obtain assistance from the Council, a member association or another board;

- (b) a branch affiliate that is a party may obtain assistance from the Federation, an affiliate or another branch affiliate; and
- (c) a party may obtain assistance from one or more advisors, agents, counsel or solicitors.

## PART II

### NEGOTIATIONS

**9.** Negotiations shall be carried out in respect of any term or condition of employment put forward by either party.

Subject-matter of negotiations

**10.** Where there is no agreement in force between a board and a branch affiliate and no written collective understanding in force between the board and the branch affiliate or the teachers represented by the branch affiliate, the branch affiliate may give to the board or the board may give to the branch affiliate written notice of its desire to negotiate with the view to making an agreement.

Notice of desire to negotiate for renewal of agreement

**11.—(1)** Either party to an agreement may give written notice to the other party within the month of January in the year in which the agreement expires of its desire to negotiate with the view to the renewal, with or without modification, of the agreement then in operation.

Where notice not given of desire to negotiate renewal of agreement

**(2)** Where an agreement exists between a board or boards and a branch affiliate or branch affiliates and no party to the agreement gives notice in accordance with this Act of its desire to negotiate with the view to the renewal of the agreement, the agreement continues in operation and is renewed from year to year, with each yearly period expiring on the 31st day of August, until the year, if any, in which notice is given in accordance with this Act of desire to negotiate with the view to the renewal, with or without modification, of the agreement.

Working conditions may not be altered

**(3)** Where notice has been given of desire to negotiate to make or renew an agreement, the terms and conditions of the written collective understanding or agreement, other than a term or condition that prevents a strike, that was in force at the time of giving the notice shall not be altered until either,

- (a) an agreement or a new agreement comes into force or the agreement is renewed, as the case may be; or

- (b) subject to subsection 2 of section 28 and subsection 5 of section 69, sixty days have elapsed after the Commission has made public the report of the fact finder as provided in section 27,

whichever first occurs.

**12.—**(1) The parties shall meet within thirty days from the giving of the notice and they shall negotiate in good faith and make every reasonable effort to make an agreement or to renew the agreement, as the case requires. Obligation to negotiate

(2) Notwithstanding subsection 1, where a written collective understanding expires on or about the 31st day of December, 1975, and notice is given pursuant to subsection 3 of section 7, the parties shall meet on or before the 15th day of September, 1975 and they shall negotiate in good faith and make every reasonable effort to make an agreement. Transitional provision

**13.—**(1) The parties, at any time during negotiations to make or renew an agreement, may agree to, Parties may choose procedures to reach agreement

(a) request the Commission to assign a person to assist the parties to make or renew the agreement;

(b) request the Commission to appoint a fact finder as provided in Part III; or

(c) refer all matters remaining in dispute between them that may be provided for in an agreement to,

(i) an arbitrator or a board of arbitration for determination as provided in Part IV, or

(ii) a selector for determination as provided in Part V.

(2) Where the parties refer all matters remaining in dispute between them to an arbitrator or a board of arbitration or to a selector pursuant to clause c of subsection 1, no teacher who is a member of a branch affiliate that is a party shall engage in a strike against the board that is a party and the board shall not lock out or declare a state of lock-out to exist against members of the branch affiliate that is a party. Effect of choice of procedure

**14.** The Commission may, in the exercise of its own discretion, at any time assign a person to assist the parties to make or renew an agreement. Where Commission may assign person to assist parties



## PART III

## FACT FINDING

Appointment  
of fact  
finder

**15.** The Commission shall appoint forthwith a person as a fact finder during negotiations to make or renew an agreement if the parties have not referred all matters remaining in dispute between them to an arbitrator or board of arbitration as provided in Part IV or a selector as provided in Part V and,

- (a) one or both of the parties gives notice to the Commission that an impasse has been reached in the negotiations and requests the appointment of a fact finder, and the Commission approves the request;
- (b) the Commission is of the opinion that an impasse has been reached in the negotiations; or
- (c) the written collective understanding that was in effect or the agreement that was in operation in respect of the parties expires during negotiations between the parties to make or renew an agreement, and fact finding has not taken place as provided in this Part.

Parties may  
proceed  
to make  
agreement  
or to  
arbitration  
or selection  
procedure

**16.** The parties to negotiations to make or renew an agreement may, notwithstanding the appointment of a fact finder,

- (a) make or renew the agreement; or
- (b) agree to refer all matters remaining in dispute between them to,
  - (i) an arbitrator or a board of arbitration for determination as provided in Part IV, or
  - (ii) a selector for determination as provided in Part V,

and upon the giving of notice to the Commission by the parties that they have so acted, the appointment of the fact finder is terminated.

Persons  
prohibited  
as fact  
finder

**17.** No person shall be appointed a fact finder who has a direct pecuniary interest in the matters coming before him or who is acting or has, within the period of six months immediately before the date of his appointment, acted as solicitor, counsel, negotiator, advisor or agent of either of the parties, but no person shall be deemed to have a direct pecuniary interest by reason only of being a ratepayer within the area of jurisdiction of the board that is a party.



**18.** Where a fact finder ceases to act by reason of withdrawal, death or otherwise before submitting his report to the Commission, the Commission shall appoint another person in his stead and such person shall commence the work of the fact finder *de novo*. Vacancy

**19.** Where the Commission appoints a fact finder, the Commission shall give written notice to each of the parties of the appointment of and the name and address of the fact finder. Notice of appointment of fact finder

**20.**—(1) Within seven days after the receipt of notice from the Commission of the appointment of the fact finder, each party shall give written notice to the fact finder and to the other party setting out all the matters that the parties have agreed upon for inclusion in an agreement and all the matters remaining in dispute between the parties. Notice of matters agreed upon and matters in dispute

(2) Where a party fails to comply with subsection 1, the fact finder may make a determination of the matters mentioned in subsection 1 and may then proceed pursuant to this Part. Where notice not given

**21.**—(1) It is the duty of a fact finder to confer with the parties and to inquire into, ascertain and make a report setting out the matters agreed upon by the parties for inclusion in an agreement and the matters remaining in dispute between the parties. Duty of fact finder

(2) A fact finder may, in his report, include his findings in respect of any matter that he considers relevant to the making of an agreement between the parties and recommend terms of settlement of the matters remaining in dispute between the parties. What report may contain

**22.** In inquiring into and ascertaining the matters remaining in dispute between the parties, the fact finder may inquire into and consider any matter that the fact finder considers relevant to the making of an agreement between the parties including, without limiting the foregoing, Matters that may be considered by fact finder

- (a) the conditions of employment in occupations outside the public teaching sector;
- (b) the effect of geographic or other local factors on the terms and conditions of employment;
- (c) the cost to the board of the proposal of either party;
- (d) the interests and welfare of the public.

Procedure  
of fact  
finder

**23.** The fact finder shall determine his own procedure under guidelines established by the Commission and, where the fact finder requests information from a party, the party shall provide the fact finder with full and complete information.

Submission  
of report of  
fact finder

**24.** The fact finder shall submit his report to the Commission within thirty days after the date of his appointment or within such longer period of time as the Commission, with the agreement of the parties, may direct and the Commission shall forthwith give a copy of the report to each of the parties.

Report not  
binding

**25.** The report of the fact finder is not binding on the parties but is made for the advice and guidance of the parties and upon receipt of the report the parties shall endeavour, in good faith, to make an agreement or to renew the agreement, as the case may be.

Assignment  
of  
assistance

**26.—(1)** Where the Commission has given a copy of the report of the fact finder to each of the parties and the Commission is of the opinion that the parties will or are likely to benefit from assistance, the Commission may assign a person to assist the parties to make or renew, as the case may be, the agreement.

Idem

**(2)** Where the Commission has given a copy of the report of the fact finder to each of the parties and both of the parties request assistance from the Commission, the Commission shall assign a person to assist the parties to make or renew, as the case may be, the agreement.

Where report  
confidential

**27.—(1)** If the parties make or renew, as the case may be, an agreement within fifteen days after the Commission has given a copy of the report to each of the parties, the report shall not be made public by the Commission, either of the parties or by any person.

Release  
of report

**(2)** If the parties do not make an agreement, or renew the agreement, as the case may be, within the period of time specified in subsection 1, the Commission shall make public the report of the fact finder.

Deferral  
of  
release

**(3)** Notwithstanding subsections 1 and 2, where both parties agree and the Commission approves, the Commission may defer making public the report of the fact finder for an additional period of not more than five days.

Parties  
may agree  
to refer  
matters in  
dispute

**28.—(1)** If the parties do not make or renew, as the case may be, an agreement within fifteen days after the Commission has given a copy of the report of the fact finder to

each of the parties, the parties may agree to refer all matters in dispute between them that may be provided for in an agreement to,

- (a) an arbitrator or a board of arbitration for determination as provided in Part IV; or
- (b) a selector for determination as provided in Part V.

(2) Where, pursuant to subsection 1, the parties refer all matters remaining in dispute between them that may be provided for in an agreement to an arbitrator or a board of arbitration or refer all such matters to a selector and either of the parties submits its final offer to the selector,

Effect of  
choice of  
procedure

- (a) the terms of the written collective understanding or agreement, if any, in force between the parties at the time written notice is given or deemed to be given of desire to negotiate pursuant to section 7 or at the time of the giving of notice of desire to negotiate pursuant to subsection 1 or 2 of section 11, shall not be altered until an agreement is made or renewed between the parties; and
- (b) no teacher who is a member of a branch affiliate that is a party shall engage in a strike against the board that is a party and the board shall not lock out or declare a state of lock-out to exist against members of the branch affiliate that is a party.

## PART IV

### VOLUNTARY BINDING ARBITRATION

**29.—**(1) Where the parties agree to refer all matters remaining in dispute between them that may be provided for in an agreement to an arbitrator or a board of arbitration, the parties shall jointly give written notice to the Commission that they have so agreed and the notice shall state,

Parties  
to give  
notice to  
Commission  
where  
arbitration  
agreed  
upon

- (a) that the parties agree to refer the matters to an arbitrator and,
  - (i) the date of appointment and the name and address of the arbitrator, or
  - (ii) that the parties have not appointed the arbitrator and that the parties request the Commission to appoint the arbitrator; or

(b) that the parties agree to refer the matters to a board of arbitration and,

(i) that the parties have each appointed a person as a member of the board of arbitration and shall set out the names and addresses of the two members so appointed, or

(ii) that both of the parties or one of them, as the case may be, has not appointed a person as a member of the board of arbitration and that the parties request the Commission to appoint the members or member, as the case may be, of the board,

and the notice shall state that the decision of the arbitrator or board of arbitration will be accepted by the parties as binding upon them.

Parties not  
to withdraw

(2) Except as provided in section 57, a party shall not withdraw from arbitration proceedings under this Part after notice is given to the Commission in accordance with subsection 1.

Where  
appoint-  
ments  
made by  
Commission

(3) Where the parties, in the notice mentioned in subsection 1, request the Commission to appoint the arbitrator or the members or one of the members of the board of arbitration, the Commission shall make the appointment or appointments and shall forthwith thereafter give notice thereof to the parties setting out the name and address of the appointee or the names and addresses of the appointees, as the case may be, together with the date of the appointment or appointments.

Appoint-  
ment of  
chairman  
by members

(4) Where the parties agree to refer all matters remaining in dispute between them to a board of arbitration, the two members of the board of arbitration shall, within ten days after the giving of notice of their appointment by the parties or by the Commission, as the case may be, appoint a third person to be chairman of the board of arbitration and the chairman shall forthwith give written notice to the Commission of his appointment.

Where  
Commission  
to appoint  
chairman

(5) Where the two members of the board of arbitration are unable to appoint or to agree on the appointment of the chairman of the board of arbitration within the period of time set out in subsection 4, the Commission shall appoint the chairman and shall give notice of the appointment to the



two members and to the parties and the notice shall set out the name and address of the person appointed and the date of the appointment.

**30.** No person shall be appointed an arbitrator or member or chairman of a board of arbitration who has a direct pecuniary interest in the matters coming before him or who is acting or has, within the period of six months immediately before the date of his appointment, acted as solicitor, counsel, negotiator, advisor or agent of either of the parties, but no person shall be deemed to have a direct pecuniary interest by reason only of being a ratepayer within the area of jurisdiction of the board that is a party.

Persons prohibited as arbitrator or members or chairman of board of arbitration

**31.—(1)** Where a member of a board of arbitration is unable to enter on or to carry on his duties so as to enable a decision to be rendered within the period of time required by subsection 2 or ceases to act by reason of withdrawal or death before the board of arbitration has completed its work, a replacement shall be appointed by the body that appointed the member, and the board of arbitration shall continue to function as if such member were a member of the board of arbitration from the beginning.

Vacancy

**(2)** Where the chairman of a board of arbitration is unable to enter on or to carry on his duties so as to enable a decision to be rendered within sixty days after his appointment or within such longer period of time as may be provided in writing by the board of arbitration and consented to by the Commission or ceases to act by reason of withdrawal or death, the Commission shall give notice thereof to the members of the board of arbitration who shall within seven days of the giving of the notice appoint a person to be the chairman and if the appointment is not so made by the members it shall be made by the Commission, and after the chairman is appointed the arbitration shall begin *de novo*.

Where chairman unable to act

**(3)** Where an arbitrator is unable to enter on or to carry on his duties so as to enable a decision to be rendered within sixty days after his appointment or within such longer period of time as may be provided in writing by the arbitrator and consented to by the Commission or ceases to act by reason of withdrawal or death, the Commission shall give notice thereof to the parties who shall within seven days of the giving of the notice appoint a person to be the arbitrator and if the appointment is not so made it shall be made by the Commission and after the arbitrator is appointed the arbitration shall begin *de novo*.

Where arbitrator unable to act



Notice of  
matters  
agreed  
upon and  
matters in  
dispute

**32.** Within seven days after the giving of notice that the arbitrator or the chairman of the board of arbitration, as the case may be, has been appointed, each party shall give written notice to the arbitrator or chairman and to the other party setting out all the matters that the parties have agreed upon for inclusion in an agreement and all the matters remaining in dispute between the parties.

Procedure

**33.**—(1) The arbitrator or board of arbitration shall determine his or its own procedure but shall give full opportunity to the parties to present their evidence and make their submissions.

Idem

(2) If the members of a board of arbitration are unable to agree among themselves on matters of procedure or as to the admissibility of evidence, the decision of the chairman governs.

Decision

(3) The decision of a majority of a board of arbitration is the decision of the board, but if there is no majority, the decision of the chairman is the decision of the board.

Powers of  
arbitrator  
or board of  
arbitration

**34.**—(1) The arbitrator or board of arbitration has power,

(a) to summon any person,

(i) to give oral or written evidence on oath or affirmation to the arbitrator or board of arbitration, or

(ii) to produce in evidence for the arbitrator or board of arbitration such documents and other things as the arbitrator or board of arbitration may specify;

(b) to administer oaths and affirmations;

(c) to accept for or exclude from consideration any oral testimony, document or other thing, whether admissible in a court of law or not.

Stated case  
for contempt  
for failure  
to attend.  
etc.

(2) Where any person without lawful excuse,

(a) on being duly summoned under subsection 1 as a witness before the arbitrator or board of arbitration, as the case may be, makes default in so attending;

(b) being in attendance as a witness before the arbitrator or board of arbitration, as the case may be,

refuses to take an oath or to make an affirmation legally required by the arbitrator or board of arbitration to be taken or made, or to produce any document or thing in his power or control legally required by the arbitrator or board of arbitration to be produced to him or it, or to answer any question to which the arbitrator or board of arbitration may legally require an answer; or

- (c) does any other thing that would, if the arbitrator or board of arbitration had been a court of law having power to commit for contempt, have been contempt of that court,

the arbitrator or board of arbitration may state a case to the Divisional Court setting out the facts and that court may, on the application of the arbitrator or board of arbitration, inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court.

**35.**—(1) The arbitrator or board of arbitration shall inquire into, consider and decide on all matters remaining in dispute between the parties. Duty of arbitrator or board of arbitration

(2) In the conduct of proceedings before him or it and in reaching a decision in respect of a matter in dispute, the arbitrator or board of arbitration may inquire into and consider any matter that the arbitrator or board of arbitration considers relevant to the making of an agreement between the parties. Matters that may be considered by arbitrator or board of arbitration

**36.**—(1) The arbitrator or board of arbitration shall complete the consideration of all matters in dispute between the parties and shall report in writing his or its decision on the matters to the parties and to the Commission within sixty days after the giving of notice of the appointment of the arbitrator or of the appointment of the chairman of the board of arbitration, as the case may be, or within such longer period of time as may be provided in writing by the arbitrator or board of arbitration and consented to by the Commission. Time for report of arbitrator or board of arbitration

(2) The decision of the arbitrator or board of arbitration is binding upon the parties and they shall comply in good faith with the decision. Effect of decision

Preparation  
and  
execution of  
document by  
parties

**37.**—(1) Within thirty days after receipt by the parties of the report of the arbitrator or board of arbitration, as the case may be, the parties shall prepare a document giving effect to all matters agreed upon by the parties and the decision of the arbitrator or board of arbitration and shall execute the document and thereupon it constitutes an agreement.

Where  
arbitrator  
or board of  
arbitration  
to prepare  
document

(2) If the parties fail to execute the document within the period of time mentioned in subsection 1, the arbitrator or board of arbitration, as the case may be, shall prepare the document and submit it to the parties and shall fix the time within which and the place where the parties shall execute the document.

Failure  
to execute  
document

(3) If the parties or either of them fail to execute the document within the time fixed by the arbitrator or the board of arbitration, the document shall be deemed to be in effect as though it had been executed by the parties and the document thereupon constitutes an agreement.

## PART V

### FINAL OFFER SELECTION

Parties  
to give  
notice to  
Commission  
where  
selection  
agreed  
upon

**38.**—(1) Where the parties agree to refer all matters remaining in dispute between them that may be provided for in an agreement to a selector, the parties shall jointly give written notice to the Commission that they have so agreed and the notice shall state that the parties agree to refer the matters to a selector and,

(a) the date of appointment and the name and address of the selector; or

(b) that the parties have not appointed the selector and that the parties request the Commission to appoint the selector.

Statement  
by parties

(2) The parties shall, together with the notice mentioned in subsection 1, give to the Commission a written statement signed by the parties setting out that neither party will withdraw from the proceedings after the final offers of the parties have been submitted to the selector and that the decision of the selector will be accepted by the parties as binding upon them.

Parties not  
to withdraw

(3) Except as provided in section 57, where the parties give to the Commission a written statement in accordance with

subsection 2, a party shall not withdraw from the proceedings after the final offer of either of the parties has been submitted to the selector.

(4) Where the parties request the Commission to appoint the selector, the Commission shall make the appointment and give notice of the appointment of the selector to the parties and the notice shall set out the name and address of the person appointed and the date of the appointment.

Where  
Commission  
appoints  
selector

**39.** No person shall be appointed a selector who has a direct pecuniary interest in the matters coming before him or who is acting or has, within the period of six months immediately before the date of his appointment, acted as solicitor, counsel, negotiator, advisor or agent of either of the parties, but no person shall be deemed to have a direct pecuniary interest by reason only of being a ratepayer within the area of jurisdiction of the board that is a party.

Persons  
prohibited  
as selector

**40.** Where a selector is unable to enter on or to carry on his duties so as to enable a decision to be rendered within the time specified by this Act or such longer period of time as may be provided in writing by the selector and consented to by the Commission or ceases to act by reason of withdrawal or death, the Commission shall give notice thereof to the parties who shall within seven days of the giving of the notice appoint a person to be the selector, and if the appointment is not so made by the parties it shall be made by the Commission, and after the selector is appointed, the selection procedure shall begin *de novo*.

Selector  
unable to  
act

**41.** Within seven days after the giving of notice that the selector has been appointed, the parties shall jointly give written notice to the selector setting out all the matters that the parties have agreed upon for inclusion in an agreement and all the matters remaining in dispute between the parties.

Notice of  
matters  
agreed  
upon and  
matters in  
dispute

**42.** Within fifteen days after the giving of notice that the selector has been appointed, each party shall give written notice to the selector setting out the final offer of the party on all the matters remaining in dispute between the parties and may submit with the notice a written statement in support of the final offer set out in the notice.

Notice of  
final offer

**43.** Upon receiving the notices of the parties setting out the final offer of each party, the selector shall forthwith give to each party a copy of the notice setting out the final offer of the opposite party on all the matters remaining

Final offer  
of opposite  
party



in dispute between the parties together with a copy of the statement, if any, of the opposite party submitted in support of the final offer of the opposite party.

Written  
response

**44.** Each party may, within ten days after being given a copy of the final offer and supporting statement, if any, of the opposite party, give to the selector a written reply and the selector shall forthwith give a copy of the reply of each party to the opposite party.

Hearing

**45.** Within fifteen days after each party has been given a copy of the final offer and supporting statement, if any, of the opposite party, or within such longer period of time as may be provided in writing by the selector and consented to by the Commission, the selector shall hold a hearing in respect of the matters remaining in dispute between the parties and may, before making a selection, hold a further hearing or hearings.

Parties may  
dispense  
with hearing

**46.** The parties may agree to dispense with a hearing by the selector and in such case may jointly give written notice to the selector that they have so agreed, and, the selector upon receipt of the notice, shall not hold a hearing but shall proceed to his decision.

Procedure

**47.—(1)** The selector shall determine his own procedure but, in holding a hearing, shall give full opportunity to the parties to present their evidence and make their submissions.

Powers of  
selector

(2) The selector has power,

(a) to summon any person,

(i) to give oral or written evidence on oath or affirmation to the selector, or

(ii) to produce in evidence for the selector such documents and other things as the selector may specify;

(b) to administer oaths and affirmations;

(c) to accept for or exclude from consideration any oral testimony, document or other thing, whether admissible in a court of law or not.

Stated case  
for contempt  
for failure  
to attend,  
etc.

(3) Where any person without lawful excuse,

(a) on being duly summoned under subsection 2 as a witness before the selector makes default in so attending;



- (b) being in attendance as a witness before the selector, refuses to take an oath or to make an affirmation legally required by the selector to be taken or made, or to produce any document or thing in his power or control legally required by the selector to be produced to him, or to answer any question to which the selector may legally require an answer; or
- (c) does any other thing that would, if the selector had been a court of law having power to commit for contempt, have been contempt of that court,

the selector may state a case to the Divisional Court setting out the facts and that court may, on the application of the selector, inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court.

**48.** The selector shall, within fifteen days after the conclusion of the hearing or hearings or within fifteen days after the giving of the notice by the parties that they have agreed to dispense with a hearing, as the case may be, or within such longer period of time as may be provided in writing by the selector and consented to by the Commission, make a decision selecting all of one of the final offers on all matters remaining in dispute between the parties given to the selector by one or the other of the parties.

Selection  
of final  
offer

**49.** The decision of the selector is binding upon the parties and they shall comply in good faith with the decision.

Effect of  
decision

**50.—(1)** Within thirty days after receipt of notice of the decision of the selector, the parties shall prepare a document giving effect to all matters agreed upon by the parties and the decision of the selector and shall execute the document and thereupon it constitutes an agreement.

Preparation  
and execu-  
tion of  
document  
by parties

(2) If the parties fail to execute the document within the period of time mentioned in subsection 1, the selector shall prepare the document and submit it to the parties and shall fix the time within which and the place where the parties shall execute the document.

Where  
selector  
to prepare  
document

(3) If the parties or either of them fail to execute the document within the time fixed by the selector, the document shall be deemed to be in effect as though it had been executed by the parties and the document thereupon constitutes an agreement.

Failure  
to execute  
document

## PART VI

## AGREEMENTS

Term of  
agreement**51.**—(1) Every agreement shall,

- (a) provide for a term of operation of not less than one year;
- (b) state that it is effective on and after the 1st day of September in the year in which it is to come into operation; and
- (c) state that it expires on the 31st day of August in the year in which it ceases to operate.

Exception

(2) Notwithstanding subsection 1, where a written collective understanding is expressed to expire on or about the 31st day of December, 1975, the parties may make an agreement expressed to expire on the 31st day of August, 1976.

Idem

(3) Notwithstanding subsection 1, where a written collective understanding is expressed to expire on or about the 31st day of December, 1976, the parties may make an agreement expressed to expire on the 31st day of August, 1977.

Conflict

**52.**—(1) Where a conflict appears between a provision of an agreement and a provision of an Act or regulation, the provision of the Act or regulation prevails.

Application  
of  
B.N.A.

(2) The provisions of this Act shall not be construed as to prejudicially affect the rights and privileges with respect to the employment of teachers enjoyed by Roman Catholic and Protestant separate school boards under *The British North America Act, 1867*.

Resolution  
of matters  
arising  
out of  
agreement

**53.**—(1) Unless an agreement otherwise provides for the final and binding settlement of all differences between the parties arising from the interpretation, application, administration or alleged contravention of the agreement, the agreement is deemed to include the following provision:

Where a difference arises between the parties relating to the interpretation, application or administration of this agreement, or where an allegation is made that this agreement has been contravened, either of the parties may, after exhausting any grievance procedure established

by this agreement, notify the other party in writing of its desire to submit the difference or allegation to arbitration and the notice shall contain the name of the first party's appointee to an arbitration board. The recipient of the notice shall within five days inform the other party either that it accepts the other party's appointee as a single arbitrator or inform the other party of the name of its appointee to the arbitration board. Where two appointees are so selected they shall, within five days of the appointment of the second of them, appoint a third person who shall be the chairman. If the recipient of the notice fails to appoint an arbitrator or if the two appointees fail to agree upon a chairman within the time limited, the appointment shall be made by the Commission upon the request of either party. The single arbitrator or the arbitration board, as the case may be, shall hear and determine the difference or allegation and shall issue a decision and the decision is final and binding upon the parties and upon any employee or employer affected by it. The decision of a majority is the decision of the arbitration board, but, if there is no majority, the decision of the chairman governs. The arbitrator or arbitration board, as the case may be, shall not by his or its decision add to, delete from, modify or otherwise amend the provisions of this agreement.

(2) Where a party or a teacher fails to comply with any of the terms of a decision of an arbitrator or board of arbitration, any party or any teacher affected by the decision may file in the office of the Registrar of the Supreme Court a copy of the decision of the arbitrator or board of arbitration, exclusive of the reasons therefor and certified by the arbitrator or the chairman of the board of arbitration to be a true copy of the decision, whereupon the decision shall be entered in the same way as a judgment or order of that court and is enforceable as such. Enforcement of arbitration decision

**54.**—(1) Every agreement shall provide that there will be no strike or lock-out during the term of the agreement or of any renewal of the agreement. Provision against strikes, etc.

(2) If an agreement does not contain the provision mentioned in subsection 1, the agreement shall be deemed to contain the following provision: Statutory provision

“There shall be no strike or lock-out during the term of this agreement or of any renewal of this agreement”.

(3) For the purposes of subsections 1 and 2, a written collective understanding shall be deemed to be an agreement. Where written collective understanding deemed to be agreement

Agreement  
to form  
part of  
contract of  
employment

**55.**—(1) An agreement between a board and a branch affiliate shall be deemed to form part of the contract of employment between the board and each teacher who is a member of the branch affiliate.

Conflict

(2) Where a conflict appears between a provision of any other part of a contract of employment and a provision of the agreement referred to in subsection 1, the provision of the agreement prevails, but no agreement shall conflict with the form of contract prescribed by the regulations under

1974, c. 109

*The Education Act, 1974.*

Notice of  
agreement

**56.** Where the parties agree on all the matters to be included in an agreement, whether during or at the conclusion of negotiations or other proceedings under this Act, the chief executive officer of the board or of each of the boards, as the case may be, that is a party shall forthwith give notice thereof to the Commission.

Where  
agreement  
reached

**57.** Where the parties agree on all the matters to be included in an agreement, whether during or at the conclusion of negotiations or other proceedings under this Act, they shall prepare a document incorporating all the matters agreed upon and shall execute the document and the document thereupon constitutes an agreement.

Notice to  
Commission  
of execution  
of agreement

**58.** Upon the execution of an agreement, each party to the agreement shall forthwith give notice thereof, together with a copy of the agreement, to the Commission.

Binding  
effect of  
agreement

**59.** An agreement is binding upon the board and upon the branch affiliate that is a party to it and upon the teachers employed by the board who are members of the branch affiliate.

## PART VII

### EDUCATION RELATIONS COMMISSION

Commission  
established

**60.**—(1) There shall be a commission to be known as the Education Relations Commission composed of five persons who shall be appointed by the Lieutenant Governor in Council.

Chairman  
and vice-  
chairman

(2) The Lieutenant Governor in Council shall designate a chairman and a vice-chairman from among the members of the Commission.

Acting  
chairman

(3) In the case of the absence or inability to act of the chairman or of there being a vacancy in the office of the chairman, the vice-chairman shall act as and have all the powers of the chairman and in the absence of the chairman



and, vice-chairman from any meeting of the Commission, the members of the Commission present at the meeting shall appoint an acting chairman who shall act as and have all the powers of the chairman during the meeting.

(4) The members of the Commission shall be appointed for a term of one, two or three years so that as nearly as possible one-third of the members shall retire each year. Term of office

(5) Every vacancy on the Commission caused by the death, resignation or incapacity of a member may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member. Vacancy

(6) Each of the members of the Commission is eligible for reappointment upon the expiration of his term of office. Reappointment

(7) Three members of the Commission constitute a quorum and are sufficient for the exercise of all the authority of the Commission. Quorum

(8) The powers of the Commission shall be exercised by resolution and the Commission may pass resolutions governing the calling of and the proceedings at meetings and specifying the powers and duties of employees of the Commission and generally dealing with the carrying out of its duties. Exercising powers

(9) The members of the Commission shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council. Remuneration

(10) Subject to the approval of the Lieutenant Governor in Council, the Commission may, Officers, staff, etc.

(a) establish job classifications, salary ranges and terms and conditions of employment for its employees; and

(b) appoint and pay such employees as are considered proper.

(11) *The Public Service Superannuation Act* applies to the permanent employees of the Commission as though the Commission had been designated by the Lieutenant Governor in Council under section 27 of that Act. R.S.O. 1970, c. 387, applicable

(12) The Commission may engage persons other than those employed pursuant to subsection 10 to provide professional, technical or other assistance to or on behalf of the Commission, Professional and other assistance



and may prescribe the terms of engagement and provide for payment of the remuneration and expenses of such persons.

Duties of  
Commission

**61.**—(1) It is the duty of the Commission,

- (a) to carry out the duties imposed on it by this Act and such other functions as may, in the opinion of the Commission, be necessary to carry out the intent and purpose of this Act;
- (b) to maintain an awareness of negotiations between teachers and boards;
- (c) to compile statistical information on the supply, distribution, professional activities and salaries of teachers;
- (d) to provide such assistance to parties as may facilitate the making or renewing of agreements;
- (e) to select and, where necessary, to train persons who may act as mediators, fact finders, arbitrators or selectors;
- (f) to determine, at the request of either party or in the exercise of its discretion, whether or not either of the parties is or was negotiating in good faith and making every reasonable effort to make or renew an agreement;
- (g) to determine the manner of conducting and to supervise votes by secret ballot pursuant to this Act; and
- (h) to advise the Lieutenant Governor in Council when, in the opinion of the Commission, the continuance of a strike, lock-out or closing of a school or schools will place in jeopardy the successful completion of courses of study by the students affected by the strike, lock-out or closing of a school or schools.

Provision of  
information

(2) The Commission may request a board to provide information necessary to compile the statistical information referred to in subsection 1 and a board shall comply with such a request within a reasonable period of time.

Annual  
report

(3) The Commission shall annually prepare a report on the affairs of the Commission for the preceding year and the report shall be tabled in the Legislature.

**62.** No member of the Commission shall be required to give testimony in any proceeding under this Act with regard to information obtained by him in the discharge of his duties as a member of the Commission. Testimony  
by member  
of  
Commission

**63.** The moneys required for the purposes of the Commission shall, until the 31st day of March, 1976 and subject to the approval of the Lieutenant Governor in Council, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature. Moneys

## PART VIII

### STRIKES AND LOCK-OUTS

**64.—(1)** No teacher shall take part in a strike against the board that employs the teacher unless, Notice of  
strike

- (a) there is no agreement in operation that is deemed under this Act to form part of the contract of employment between the board and the teacher;
- (b) notice of desire to negotiate to make or renew an agreement has been given by either party;
- (c) all the matters remaining in dispute between the board and the branch affiliate that represents the teacher have been referred to a fact finder and fifteen days have elapsed after the Commission has made public the report of the fact finder;
- (d) the offer of the board in respect of all matters agreed upon by the parties and in respect of all matters remaining in dispute between the parties last received by the branch affiliate that represents the teacher is submitted to and rejected by the teachers composing the branch affiliate by a vote by secret ballot conducted under the supervision of and in the manner determined by the Commission;
- (e) the teachers composing the branch affiliate that represents the teacher have voted, not earlier than the vote referred to in clause *d* and not before the end of the fifteen day period referred to in clause *c*, in favour of a strike by a vote by secret ballot conducted under the supervision of and in the manner determined by the Commission; and
- (f) after a vote in favour of a strike in accordance with clause *e*, the branch affiliate that represents the teacher gives to the board written notice of the strike and of the date on which the strike

will commence at least five days before the commencement of the strike.

Where  
written  
collective  
under-  
standing

(2) Where a written collective understanding is in effect immediately before the coming into force of this Act, no teacher shall take part in a strike against the board unless the requirements of clauses *c*, *d*, *e* and *f* of subsection 1 are complied with.

Where  
written  
collective  
under-  
standing  
deemed to be  
agreement

(3) For the purpose of subsection 1, a written collective understanding is deemed to be an agreement mentioned in clause *a* of subsection 1.

Principals  
and vice-  
principals

**65.**—(1) A principal and a vice-principal shall be members of a branch affiliate.

Idem,  
membership  
in branch  
affiliate

(2) Notwithstanding subsection 1, in the event of a strike by the members of a branch affiliate each principal and vice-principal who is a member of the branch affiliate shall remain on duty during the strike or any related lock-out or state of lock-out or closing of a school or schools.

Unlawful  
strike

**66.**—(1) The Federation shall not and no affiliate or branch affiliate shall call or authorize or threaten to call or authorize an unlawful strike.

Idem

(2) No officer, official or agent of the Federation, an affiliate or a branch affiliate or member of a branch affiliate shall counsel, procure, support or encourage an unlawful strike or threaten an unlawful strike.

Unlawful  
lock-out

**67.**—(1) The Council shall not and no member association or board shall call or authorize or threaten to call or authorize an unlawful lock-out.

Idem

(2) No officer, official or agent of the Council, a member association or a board or member of a board shall counsel, procure, support or encourage an unlawful lock-out or threaten an unlawful lock-out.

Declaration  
of unlawful  
strike

**68.**—(1) Where the Federation, an affiliate or a branch affiliate calls or authorizes a strike or teachers take part in a strike against a board that the board, a member association, the Council or any person normally resident within the jurisdiction of the board alleges is unlawful, the board, member association, Council or person may apply to the Ontario Labour Relations Board for a declaration that the strike is unlawful, and the Board may make the declaration.

Declaration  
of unlawful  
lock-out

(2) Where the Council, a member association or a board calls or authorizes a lock-out of members of a branch affiliate that the branch affiliate, an affiliate, the Federation or any person normally resident within the jurisdiction of the board

alleges is unlawful, the branch affiliate, affiliate, Federation or person may apply to the Ontario Labour Relations Board for a declaration that the lock-out is unlawful, and the Board may make the declaration.

(3) Where the Ontario Labour Relations Board makes a declaration under subsection 1 or 2, the Board in its discretion may, in addition, direct what action, if any, a person, teacher, branch affiliate, affiliate, the Federation, a board, member association or the Council and their officers, officials or agents shall do or refrain from doing with respect to the unlawful strike or unlawful lock-out. <sup>Direction by O.L.R.B.</sup>

(4) The Ontario Labour Relations Board shall file in the office of the Registrar of the Supreme Court a copy of a direction made under subsection 3, exclusive of the reasons therefor, whereupon the direction shall be entered in the same way as a judgment or order of the court and is enforceable as such. <sup>Enforcement of direction by S.C.O.</sup>

**69.**—(1) Where a lawful strike takes place against a board, the board may lock out or declare a state of lock-out to exist against all members, other than principals or vice-principals, of the branch affiliate that represents teachers engaged in the strike. <sup>Lock-out</sup>

(2) No board shall lock out or declare a state of lock-out to exist or close a school or schools unless and until the proposal of the branch affiliate in respect of all matters agreed upon by the parties and in respect of all matters remaining in dispute between the parties last received by the board has been presented to a meeting of the board in public session. <sup>Idem</sup>

(3) Except as provided in subsection 1, a board shall not lock out a teacher. <sup>Idem</sup>

(4) Where a lawful strike takes place against a board, the board may close a school or schools where the board is of the opinion that, <sup>Closing of school</sup>

- (a) the safety of students may be endangered;
- (b) the school building or the equipment or supplies therein may not be adequately protected during the strike; or
- (c) the strike will substantially interfere with the operation of the school.

Payment  
of teachers

(5) A teacher shall not be paid his salary in respect of the days on which,

(a) he takes part in a strike, other than a strike as defined in subclause ii of clause 1 of section 1;

(b) he is locked out; or

(c) the school in which he is employed is closed pursuant to subsection 4.

Resumption  
of strike  
or new strike

(6) Where a lawful strike is terminated without an agreement coming into effect, no teacher shall take part in a resumption of the strike or take part in a new strike except after the provisions of clauses d, e and f of subsection 1 of section 64 have again been complied with in respect of such resumption or new strike.

Application  
of section  
1974, c. 109

(7) The provisions of this section apply notwithstanding any provision of *The Education Act, 1974*.

Participa-  
tion in  
lawful  
strike

**70.** The contract of employment or position of a teacher shall not be terminated by reason of his participation in a lawful strike.

Resignation,  
etc.,  
by teacher

**71.** Nothing in this Act precludes a teacher,

(a) from terminating his employment with a board in good faith in accordance with the provisions of his contract of employment;

(b) from withdrawing a voluntary service in good faith on an individual basis.

## PART IX

### MISCELLANEOUS

Copies of  
notice to be  
given to  
Commission

**72.** Where, under this Act, a party is required to give notice to another party, the party giving the notice shall also within the same time limit, if any, give a copy of the notice to the Commission.

Decisions,  
etc., of  
Commission  
and others  
not subject  
to review

**73.** Except in respect of section 52, no decision, order, determination, direction, declaration or ruling of the Commission, a fact finder, an arbitrator or board of arbitration, a selector or the Ontario Labour Relations Board shall be questioned or reviewed in any court, and no order shall be made or process entered, or proceedings taken in, any court, whether by way of injunction, declaratory judgment,



certiorari, mandamus, prohibition, quo warranto, application for judicial review or otherwise, to question, review, prohibit or restrain the Commission, fact finder, arbitrator or board of arbitration, selector or the Ontario Labour Relations Board or the proceedings of any of them.

**74.** Any notice or document required or authorized by <sup>Service of</sup> this Act to be given shall, <sup>notice</sup>

- (a) where it is to be given to the Commission, be delivered to the office of the Commission;
- (b) where it is to be given to a board, be delivered to the office of the board;
- (c) where it is to be given to a branch affiliate, be delivered to an officer of the branch affiliate;
- (d) where it is to be given to an affiliate, the Council, the Federation or a member association, be delivered to the office of the affiliate, the Council, the Federation or the member association, as the case requires;
- (e) where it is to be given to an arbitrator or selector, be delivered to the arbitrator or selector; and
- (f) where it is to be given to a board of arbitration, be delivered to the chairman or either of the other two members of the board of arbitration.

**75.**—(1) The expenditures incurred by a party in respect <sup>Costs</sup> of a person appointed or retained by the party for the purpose of making or renewing an agreement shall be borne by the party and all other expenses, including fees for a single arbitrator, a selector or a chairman of a board of arbitration shall be shared equally by the parties and such expenditures and fees shall be paid within sixty days after the agreement or renewal of agreement is executed or is deemed in effect as though it had been executed by the parties.

(2) The fees and expenses, if any, of persons assigned by <sup>Idem</sup> the Commission to assist parties to make or renew an agreement and of fact finders appointed by the Commission shall be paid by the Commission.

**76.** Where the Commission so directs, a branch affiliate shall file with the Commission, within the time prescribed in the direction, a statement signed by its president or secretary setting out the names and addresses of its officers. <sup>Statement as to officers of branch affiliate</sup>

Where vote  
by secret  
ballot  
required

**77.**—(1) Subject to subsection 2, a vote conducted by a branch affiliate to give approval to the terms of an agreement shall be a vote by secret ballot.

Idem

(2) A vote conducted by a branch affiliate for the purposes of subsection 1 of section 64 or for the purpose of giving approval to the terms of an agreement after the commencement of a strike shall be a vote by secret ballot conducted under the supervision of and in the manner determined by the Commission.

Contraven-  
tion by  
teacher or  
trustee

**78.**—(1) Every person who contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 for each day upon which the contravention occurs or continues.

Contraven-  
tion by  
Council or  
Federation

(2) The Council and every member association and every board and the Federation and every affiliate and every branch affiliate that contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$10,000 for each day upon which such contravention occurs or continues.

Contraven-  
tion of  
decision,  
etc.

(3) The contravention of a decision, order, determination, direction, declaration or ruling made under this Act is deemed, for the purposes of this section, to be a contravention of this Act.

Where  
officers also  
guilty of  
offence

(4) Where the Council or a member association or the Federation or an affiliate or a branch affiliate is guilty of an offence under this Act, every officer or representative thereof, and where a board is guilty of an offence under this Act every member of the board, who assents to the commission of the offence shall be deemed to be a party to and guilty of the offence and is liable to a fine under subsection 1 as if he had been convicted of an offence under subsection 1.

Information

(5) An information in respect of a contravention of any provision of this Act may be for one or more offences and no information, warrant, conviction or other proceedings in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences.

Consent to  
prosecution

(6) No prosecution for an offence under this Act shall be instituted except with the consent of the Ontario Labour Relations Board which may only be granted after affording an opportunity to the person or body seeking the consent and the person or body sought to be prosecuted to be heard.

(7) The Ontario Labour Relations Board shall determine its own practice and procedure but shall give full opportunity to the parties to any proceedings to present their evidence and to make their submissions, and the Ontario Labour Relations Board may, subject to the approval of the Lieutenant Governor in Council, make rules governing its practice and procedure and the exercise of its powers and prescribing such forms as are considered advisable.

Practice and procedure of O.L.R.B.

(8) The decision of the majority of the members of the Ontario Labour Relations Board present and constituting a quorum is the decision of the Ontario Labour Relations Board, but, if there is no majority, the decision of the chairman or vice-chairman governs.

Decision of O.L.R.B.

**79.** A prosecution for an offence under this Act may be instituted against any body, association or organization in the name of the body, association or organization whether or not the body, association or organization is a body corporate and, for the purposes of any such prosecution, any unincorporated body, association or organization shall be deemed to be a body corporate.

Style of prosecution

**80.** Any act or thing done or omitted by an officer, official or agent of the Federation, an affiliate, a branch affiliate, the Council, a member association or a board or by a member of a board within the apparent scope of his authority to act on behalf of the Federation, affiliate, branch affiliate, Council, member association or board shall be deemed to be an act or thing done or omitted by the Federation, affiliate, branch affiliate, Council, member association or board, as the case may be.

Vicarious responsibility

**81.**—(1) *The Arbitrations Act* does not apply to proceedings under this Act.

R.S.O. 1970, c. 25 not to apply

(2) *The Statutory Powers Procedure Act, 1971*, does not apply to proceedings under this Act other than in respect of a determination referred to in clause *f* of subsection 1 of section 61.

Idem 1971, c. 47

(3) Notwithstanding subsection 2, but subject to section 73, *The Statutory Powers Procedure Act, 1971* applies to proceedings before the Ontario Labour Relations Board under this Act.

Idem

**82.** Notwithstanding any other provision of this Act,

Compellability of witnesses

(a) the Minister of Education;

(b) the Deputy Minister of Education;

- (c) the chairman, a vice-chairman or a member of the Ontario Labour Relations Board;
- (d) an arbitrator or member or chairman of a board of arbitration; or
- (e) a selector,

is not a compellable witness in any proceeding under this Act.

Commence-  
ment

**83.** This Act comes into force on the day it receives Royal Assent.

Short title

**84.** This Act may be cited as *The School Boards and Teachers Collective Negotiations Act, 1975*.









An Act respecting the Negotiation of  
Collective Agreements between School  
Boards and Teachers

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*1st Reading*

June 3rd, 1975

*2nd Reading*

June 17th, 1975

*3rd Reading*

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THE HON. T. L. WELLS  
Minister of Education

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*(Reprinted as amended by the  
Committee of the Whole House)*

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Government  
Publications

**BILL 101**  
///

**Government Bill**

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

**Ontario. Legislative Assembly**  
//

**The Regional Municipalities Amendment Act, 1975**

THE HON. W. D. McKEOUGH  
Treasurer of Ontario and Minister of Economics and  
Intergovernmental Affairs



#### EXPLANATORY NOTES

SECTION 1. The subsection added provides for the manner in which an area municipality may pay the costs incurred arising out of an agreement to have passenger transport services provided to it outside the Urban Transit Area.

SECTION 2. At present, the Regional Council is empowered to levy against the municipalities in the Urban Transit Area, the sums required to meet any deficit incurred in the operations of the Ottawa-Carleton Regional Transit Commission in the preceding year. The effect of the amendment is to empower the Council to levy in the current year the sums required to meet the anticipated deficit for that year. Subsection 12 provides that the actual 1974 deficit is to be recovered by a levy made in 1975 to be payable in instalments in each of the years 1975, 1976 and 1977. The provisions respecting the apportionment of the levy amongst the various area municipalities and appeals therefrom remain unchanged.



## The Regional Municipalities Amendment Act, 1975

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### PART I

#### THE REGIONAL MUNICIPALITY OF OTTAWA-CARLETON

1. Section 67c of *The Regional Municipality of Ottawa-Carleton Act*, being chapter 407 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1972, chapter 126, section 14, is amended by adding thereto the following subsection:

(6) Where, pursuant to clause h of subsection 4, an area municipality has entered into an agreement to provide for passenger transport service outside the Urban Transit Area, the area municipality may pay the costs so incurred, including accumulated deficits, out of its general funds, or, subject to the approval of the Municipal Board as to boundaries, may pass one or more by-laws to impose a special rate or rates in one or more parts of the area municipality which, in the opinion of the council of the area municipality, derive benefit from the provision of passenger transport services.

s. 67c,  
amended  
  
How costs  
of service  
outside  
Urban Transit  
Area to be  
borne

2. Subsections 2 to 12 of section 67d of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 126, section 14, are repealed and the following substituted therefor:

s. 67d  
(2-12),  
re-enacted

(2) The Regional Council shall annually, by by-law, levy against such or the area municipalities as are wholly or partly within the Urban Transit Area such sums as are, in the opinion of the Regional Council, required to meet any anticipated deficits that may arise out of the total operations of the Commission in such year, and in calculating such levy,

Levy upon  
area muni-  
cipalities

- (a) the Regional Council shall take into account the amount of any subsidies received or to be received by the Regional Corporation for such purpose; and
- (b) the Regional Council may, to such extent as it deems proper in the circumstances, include any expenditures made by the Regional Corporation that are related to the provision, planning, or improvements of public transportation services in the Urban Transit Area,

and any such levy made in 1976 and succeeding years shall make due provision for any surplus or deficit arising out of the total operations of the Commission in the preceding year after taking into account the levy made under this subsection and all applicable subsidies.

Apportion-  
ment of  
levy

(3) A by-law enacted under subsection 2 or 12 shall apportion the levy against each of such area municipalities in a manner that, in the opinion of the Regional Council, is just and equitable, and without limiting the generality of the foregoing, the Regional Council, in making such apportionment may have regard to the degree of passenger transport services provided, the financial implications of providing such service, equalized assessment, and any other factors and considerations that are, in the opinion of the Regional Council, relevant.

Equalized  
assessments

(4) The Ministry of Revenue shall provide to the Regional Corporation such equalized assessment information as it may require for the purposes of any by-law enacted under this section and the provisions of Part VII apply *mutatis mutandis* in the event any equalized assessment is varied by an appeal under that Part or under *The Assessment Act*.

R.S.O. 1970,  
c. 32

Advances

(5) The Regional Corporation may advance moneys to the Commission from time to time upon such terms and conditions as the Regional Council may prescribe and any moneys so advanced shall be deemed not to reduce the operation deficit referred to in subsection 2 unless the Regional Council otherwise directs.

Payment of  
levy to  
Commission

(6) The sums levied under subsection 2, less any advances made under subsection 5, shall be paid by the Regional Corporation to the Commission within thirty days of the making of the levy.

Notice to  
area muni-  
cipalities

(7) Within ten days of the passing of a by-law under subsection 1, 2 or 12, the clerk of the Regional Council shall give notice thereof to the clerk of any area municipality affected thereby, by prepaid registered post.



SECTION 3. At present, the Regional Corporation is deemed to be a city for the purposes of the Act mentioned.

SECTION 4. At present, the Regional Corporation is deemed to be a city for the purposes of the Acts mentioned.

(8) Any area municipality affected by a by-law passed under subsection 1, 2 or 12 may appeal to the Municipal Board against such by-law by sending by prepaid registered post to the Municipal Board and to the clerk of the Regional Council a notice in writing setting forth its reasons therefor within thirty days of the passing of such by-law. Appeal

(9) The Municipal Board shall make such inquiries into the matter as it considers necessary and may by order confirm such by-laws or make such amendments if any, to the by-law as it deems proper in the circumstances, and the order of the Municipal Board is final. Hearing

(10) If no appeal is made against the by-law as provided in subsection 8, such by-law is valid, final and binding according to its terms so far as the same ordains, prescribes or directs anything within the proper competence of the Regional Council. Effect of  
by-law

(11) Any area municipality may pay the amounts chargeable to it under any such by-law out of its general funds, or, subject to the approval of the Municipal Board, may pass one or more by-laws to impose a special rate or rates in one or more defined areas to raise the whole or any part of the amount charged to such area municipality. Special  
levy by  
area muni-  
cipality

(12) Notwithstanding subsection 2, the Regional Council shall, by by-law, levy against such of the area municipalities as are wholly or partly within the Urban Transit Area the sums required to meet the deficit arising out of the total operations of the Commission for the year 1974, and provide for the payment of this levy by instalments on such terms and conditions and at such times during the years 1975, 1976 and 1977 as it deems proper. 1974  
deficit

**3.** Section 85 of the said Act is repealed and the following substituted therefor: s. 85,  
re-enacted

85. The Regional Corporation shall be deemed to be a county for the purposes of *The General Welfare Assistance Act*, and no area municipality shall be deemed to be a municipality for the purposes of such Act, except section 2 thereof. Liability  
of  
Regional  
Corpora-  
tion under  
R.S.O. 1970,  
c. 192

**4.** Subsection 1 of section 86 of the said Act is repealed and the following substituted therefor: s. 86 (1),  
re-enacted

(1) The Regional Corporation shall be deemed to be a county for the purposes of *The Homemakers and Nurses Services Act* and *The Day Nurseries Act*, and no area muni- Liability  
of Region-  
al Corpora-  
tion under  
R.S.O. 1970,  
cc. 203, 104



pality shall be deemed to be a municipality for the purposes of such Acts.

s. 100*b*,  
enacted

5. The said Act is amended by adding thereto the following section:

Acquiring  
lands for  
parks, etc.

100*b*.—(1) The Regional Council may pass by-laws for acquiring land for, and establishing, laying out and improving and maintaining, public parks, forests, zoological gardens, recreation areas, squares, avenues, boulevards and drives in the Regional Area and for exercising all or any of the powers that are conferred on boards of park management by *The Public Parks Act*.

R.S.O. 1970,  
c. 384

Sale of  
spirituous,  
etc., liquors  
in parks

(2) In addition to the powers that may be exercised under subsection 1, the Regional Council has power to let from year to year, or for any time not exceeding ten years, the right to sell, subject to *The Liquor Licence Act* and the regulations made thereunder, spirituous, fermented or intoxicating liquors within regional parks under such regulations as the Regional Council may prescribe.

R.S.O. 1970,  
c. 250

Application of  
R.S.O. 1970,  
c. 284

(3) Paragraphs 70 and 71 of section 352 of *The Municipal Act* apply *mutantis mutandis* to the Regional Corporation.

Regional  
Corporation  
a municipi-  
pality under  
R.S.O. 1970,  
c. 337

(4) The Regional Corporation shall be deemed to be a municipality for the purposes of *The Parks Assistance Act*.

Park lands  
owned by  
conservation  
authority, etc.

(5) Where, under an agreement with any conservation authority or the Ministry of Natural Resources, lands vested in the conservation authority, or other lands, are managed and controlled by the Regional Corporation, the Regional Corporation may,

- (a) exercise all or any of the powers conferred on it under subsection 1 in respect of such lands;
- (b) lay out, construct and maintain roads on such lands and, with the consent of the area municipality in which such lands, or any part thereof, are situate and assume the maintenance of existing roads on such lands, or any part thereof;
- (c) subject to *The Highway Traffic Act*, regulate traffic on such roads and prescribe the rate of speed for motor vehicles driven on such roads in accordance with subsection 4 of section 82 of *The Highway Traffic Act*; and

R.S.O. 1970,  
c. 202

SECTION 5. The Regional Corporation is empowered to acquire land for, and establish, public parks. Similar powers are vested in other regional municipalities.

SECTION 6. Responsibility for the disposal of solid waste is transferred to the Regional Corporation.

- (d) notwithstanding the provisions of any other Act, exempt from municipal taxation any such lands for so long as they are managed and controlled by the Regional Corporation and used for park purposes.

(6) An exemption from taxes under subsection 5 shall be deemed to have the same effect as an exemption from taxes under section 3 of *The Assessment Act*. Tax exemption  
R.S.O. 1970, c. 32

(7) The Regional Council may agree to pay annually to the area municipality in which any land used for the purposes set out in subsection 1 is situate a sum not exceeding the amount that would have been payable to the municipality as taxes if the land were not exempt from taxation. Payment in lieu of taxes

6. Section 140a of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 74, section 4, and amended by 1974, chapter 117, section 6, is repealed and the following substituted therefor: s. 140a, re-enacted

140a.—(1) In this section, “waste” includes ashes, garbage, refuse, domestic waste, industrial solid waste or municipal refuse, and such other wastes as may be designated by by-law of the Regional Council. Interpretation

(2) On and after the day this section comes into force, the Regional Corporation shall provide facilities for the purpose of receiving, dumping and disposing of waste, and no such facilities shall be provided in the Regional Area by any area municipality, any local board thereof, or any other person whomsoever, without the consent of the Regional Council. Waste disposal

(3) For the purposes of subsection 2, the Regional Corporation may, Powers of Regional Corporation

- (a) acquire and use land;
- (b) erect, maintain and operate facilities for the purposes of receiving, dumping, treating and disposing of waste;
- (c) contract with Her Majesty in right of Canada, Her Majesty in right of a province, any agency of either of them, a local or regional municipality in Ontario or Quebec, or a local board thereof, or any other person for such purposes;
- (d) prohibit or regulate the dumping, treating and disposing of waste, or any class or classes thereof, upon such land; and

- (e) provide standards and regulations for vehicles, or any class or classes thereof, used for the haulage of waste to a regional waste disposal facility.

Vesting of  
property  
in Regional  
Corporation

(4) The Regional Council may pass one or more by-laws to assume as regional waste disposal works any or all such solid waste disposal sites, works, facilities and equipment vested in any area municipality, and upon the passing of any such by-law, the sites, works, facilities and equipment specified therein shall vest in the Regional Corporation.

Payment of  
outstanding  
debt

(5) The Regional Corporation shall pay to the corporation of any area municipality on or before the due date, all amounts of principal and interest becoming due upon any outstanding debt of such area municipality in respect of the real or personal property assumed by the Regional Corporation under subsection 4.

Compensa-  
tion

(6) Subject to subsection 5, the Regional Corporation shall pay to the area municipality the costs incurred by it in the acquisition of and the improvements made to any such disposal site and works assumed by a by-law passed under subsection 4 and the current value of all equipment assumed therewith.

Interest  
on late  
payment

(7) If the Regional Corporation fails to make any payment required by subsection 5 or 6 on or before the due date, the area municipality may charge the Regional Corporation interest at the rate of 12 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

Approval  
of acquisi-  
tion of  
land

(8) No land shall be acquired under subsection 3 and no by-law shall be passed under subsection 4 without,

- (a) the approval of the area municipality in which the land is situate, which approval may be granted upon such terms and conditions as may be agreed upon; or
- (b) failing such approval or agreement, the approval of the Municipal Board.

Approval  
of  
Ontario  
Municipal  
Board

(9) The Municipal Board, before giving its approval under clause *b* of subsection 8 shall hold a public hearing and shall give or cause to be given at least ten days notice of the hearing to the clerk of the municipality concerned and to such other persons in such manner as the Board may direct, and the Board, as a condition of giving any such approval, may by its order impose such restrictions, limitations and conditions





SECTION 7. The lands mentioned are annexed from the City of Thorold to the City of Welland; the annexation is deemed to be by order of the Municipal Board for the purposes of matters consequent thereon.

respecting the acquisition or use of such land as to the Board may appear necessary or expedient.

(10) For the purposes of this section, the Regional Council shall, by by-law, prescribe rates or charges for the use of its disposal facilities. How cost to be borne

(11) When, in the opinion of the Regional Council, land has been used for solid waste disposal and is no longer required by the Regional Corporation for such purpose, the Regional Corporation shall not dispose of such land without first offering such land to the area municipality within which it is located for nominal consideration upon such terms and conditions as the Regional Council may prescribe. Disposal of sites

(12) Subject to the approval of the Regional Council, an area municipality may, by by-law, prescribe one or more routes to be used by vehicles, or any class or classes thereof, in hauling waste to any regional waste facility located in such area municipality and any such by-law may restrict such vehicles to specified area municipality or regional roads and may provide different restrictions by reference to the days and times set forth in the by-law. Routes

(13) If a by-law passed under subsection 12 is not approved by the Regional Council within a reasonable time, the Municipal Board may approve such by-law. Approval of O.M.B.

(14) The Municipal Board, before giving its approval under subsection 13, shall hold a public hearing and shall give or cause to be given at least ten days notice of the hearing to the clerk of the municipality concerned and to such other persons in such manner as the Board may direct, and the Board, as a condition of giving any such approval, may by its order require such amendments and impose such restrictions, limitations and conditions as to the Board may appear necessary or expedient. Hearing

(15) A by-law passed under paragraph 116 of subsection 1 of section 354 of *The Municipal Act* does not apply to the Regional Corporation. Non-application of by-law under R.S.O. 1970, c. 284, s. 354 (1), par. 116

## PART II

### THE REGIONAL MUNICIPALITY OF NIAGARA

7. Section 2 of *The Regional Municipality of Niagara Act*, being chapter 406 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsections: s. 2, amended

Portion of  
Thorold  
annexed to  
Welland

(1a) That portion of the City of Thorold described as follows is annexed to the City of Welland on the 1st day of July, 1975:

All of the north half of Lot 225 of the former Township of Thorold presently in the City of Thorold.

Annexation  
deemed by  
Municipal  
Board order

(1b) Subsection 3 applies *mutatis mutandis* to the annexation provided for in subsection 1a.

s. 98,  
re-enacted

**8.** Section 98 of the said Act is repealed and the following substituted therefor:

Regional  
Corporation  
deemed city  
under  
R.S.O. 1970,  
cc. 21, 270,  
422, 490

98.—(1) For the purposes of the following Acts, the Regional Corporation shall be deemed to be a city and no area municipality shall be deemed to be a municipality:

1. *The Anatomy Act.*
2. *The Mental Hospitals Act.*
3. *The Sanatoria for Consumptives Act.*
4. *The War Veterans Burial Act.*

Regional  
Corporation  
deemed  
county  
under  
R.S.O. 1970,  
cc. 104, 192,  
203

(2) For the purposes of the following Acts, the Regional Corporation shall be deemed to be a county and no area municipality shall be deemed to be a municipality:

1. *The Day Nurseries Act.*
2. *The General Welfare Assistance Act.*
3. *The Homemakers and Nurses Services Act.*

s. 176a,  
enacted

**9.** The said Act is amended by adding thereto the following section:

Welland  
Parks and  
Recreation  
Board  
dissolved

176a.—(1) On the 1st day of July, 1975, the Parks and Recreation Board of the City of Welland is dissolved and the assets and liabilities thereof are vested in and shall be assumed by The Corporation of the City of Welland.

Council of  
Welland  
deemed  
recreation  
committee  
and  
committee  
of  
management  
1974, cc. 120,  
80

(2) The council of the City of Welland shall be deemed to be a recreation committee under *The Ministry of Culture and Recreation Act, 1974*, and a committee of management under *The Community Recreation Centres Act, 1974*, and the regulations thereunder.

SECTION 8. At present, the Regional Corporation is deemed to be a city for the purposes of all the Acts mentioned.

SECTION 9. Self-explanatory.



SECTION 10. The power to license, regulate and govern lodging houses is transferred from the area municipalities to the Regional Corporation.

SECTION 11. The Waterloo Regional health unit and the Waterloo Regional Board of Health are dissolved; the Regional Corporation through the Regional Council will exercise the powers of a local board of health throughout the Regional Area.

## PART III

## THE REGIONAL MUNICIPALITY OF YORK

10. *The Regional Municipality of York Act*, being chapter 408 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

174. On and after the 1st day of July, 1975, paragraph 77 of section 352 of *The Municipal Act* applies *mutatis mutandis* to the Regional Council and no area municipality shall exercise any of the powers under that paragraph.

s. 174.  
enacted

Regional  
Council  
may license  
lodging  
houses, etc.  
R.S.O. 1970,  
c. 284

## PART IV

## THE REGIONAL MUNICIPALITY OF WATERLOO

11. Sections 100 and 101 of *The Regional Municipality of Waterloo Act*, 1972, being chapter 105, are repealed and the following substituted therefor:

100.—(1) On the 1st day of July, 1975, the Regional Area health unit, and the Waterloo Regional Board of Health are dissolved, and the assets and liabilities of the Board become the assets and liabilities of the Regional Corporation without compensation, and the Regional Corporation shall stand in the place and stead of the Waterloo Regional Board of Health for the purposes of any agreements entered into, orders made, or matters commenced by that Board, and for the purposes of any proceedings which have been or may be instituted against that Board.

s. 100.  
re-enacted  
s. 101,  
repealed

Health unit  
and Board  
dissolved

(2) The Regional Corporation shall have all the powers and rights and be subject to all the duties conferred or imposed on a local board of health for a municipality by *The Public Health Act* and shall perform all the functions of such a board, and the functions which would have been performed by the local board or the medical officer of health or the public health inspector of an area municipality shall be performed by the Regional Corporation or the medical officer of health or the health inspector of the Regional Corporation, as the case may be.

Regional  
Corporation  
to have  
powers, etc.,  
of local board  
of health  
R.S.O. 1970,  
c. 377

(3) The Regional Corporation shall be deemed to be a municipality for the purposes of *The Public Health Act*.

Regional  
Corporation  
deemed  
municipality

(4) Section 15 of *The Public Health Act* does not apply to the Regional Corporation, and section 17 of that Act does not apply to the clerk of the Regional Corporation.

Non-  
application  
of  
R.S.O. 1970,  
c. 377, ss. 15, 17

Non-application  
of  
R.S.O. 1970,  
c. 377, ss. 13, 35

(5) Sections 13 and 35 of *The Public Health Act* do not apply to an area municipality.

Regional  
Corporation  
deemed  
local board  
R.S.O. 1970,  
c. 377

(6) The Regional Corporation shall be deemed to be a local board of health for a municipality for the purposes of sections 21 and 116 and subsections 2 and 5 of section 99 and Schedule B of *The Public Health Act*.

Clerk deemed  
secretary  
of local board  
of health

(7) The clerk of the Regional Corporation shall be deemed to be the secretary of a local board for the purposes of sections 24 and 62 and subsection 2 of section 23, and subsection 7 of section 48 and Schedule B of *The Public Health Act*.

Application  
of  
R.S.O. 1970,  
c. 377  
ss. 33, 96, 118 (2)

(8) For the purposes of sections 33 and 96 and subsection 2 of section 118 of *The Public Health Act*, an order made by the Regional Council pursuant to the powers conferred on the Regional Corporation by this section shall be deemed to be an order made by a local board.

Medical  
officer of  
health, etc.,  
deemed  
appointed  
under  
R.S.O. 1970,  
c. 377, s. 35

(9) The medical officer of health and the public health inspector and all other classes of persons referred to in subsection 5 of section 35 of *The Public Health Act* employed by the Regional Corporation pursuant to subsection 14 shall be deemed to have been duly appointed under section 35 of *The Public Health Act* and shall have all the powers, rights and privileges and be subject to all the duties conferred or imposed upon such persons by that Act or any other Act.

Application  
of  
R.S.O. 1970,  
c. 377, s. 94 (1)

(10) For the purposes of subsection 1 of section 94 of *The Public Health Act* a request to the Minister of Health by the Regional Corporation shall be deemed to be a request by a local board.

Application  
of  
R.S.O. 1970,  
c. 377, ss. 125, 126

(11) The Regional Corporation may exercise the powers conferred by sections 125 and 126 of *The Public Health Act*, and no area municipality may exercise such powers.

Recovery of  
expenditures

(12) Where the Regional Corporation or the medical officer of health or a public health inspector of the Regional Corporation has incurred expenditures which under *The Public Health Act* may be recovered by levying the amount thereof against rateable property in a municipality or by adding the amount thereof to the collector's roll and collecting such amount in a like manner as municipal taxes, the Regional Council may, by by-law, direct the appropriate area municipality to levy such amount or to add such amount to its collector's roll, as the case may be, and to collect the same in accordance with the provisions of *The Public Health Act*, and the council of an area municipality



SECTION 12. At present, the council of the Town of Capreol is composed of a mayor elected by general vote and six councillors elected by wards.



shall forthwith upon receiving a direction under this subsection comply therewith, and any moneys collected pursuant to this subsection shall forthwith be paid over to the treasurer of the Regional Municipality.

(13) The Regional Corporation shall offer to employ every person who on the 30th day of June, 1975, is employed by the Waterloo Regional Board of Health, and any person who accepts employment offered under this subsection shall be entitled to receive a wage or salary up to and including the 30th day of June, 1976, of not less than he was receiving on the 30th day of June, 1975.

Offer  
of  
employment

(14) Subsections 2, 3 and 5 of section 27 apply *mutatis mutandis* to the Regional Corporation and to persons employed under subsection 14 as though such persons were employed on the 30th day of June, 1975, by a local board of a local municipality within the Regional Area.

Application  
of  
s. 27 (2, 3, 5)

(15) Where a person employed under subsection 9 was not employed under a collective agreement on the 30th day of June, 1975, the Regional Corporation shall place to the credit of such person the sick leave credits standing to his credit on such date in the sick leave credit plan of the Waterloo Regional Board of Health.

Sick leave  
credits

(16) Nothing in subsections 13, 14 and 15 prevents the Regional Corporation from terminating the employment of an employee for cause.

Termination  
of  
employment

## PART V

### THE REGIONAL MUNICIPALITY OF SUDBURY

**12.** Section 3 of *The Regional Municipality of Sudbury Act, 1972*, being chapter 104, as amended by the Statutes of Ontario, 1972, chapter 167, section 1 and 1974, chapter 54, section 1, is further amended by adding thereto the following subsection:

s. 3,  
amended

(1a) Notwithstanding subsection 1, the council of the Town of Capreol shall, on and after the 1st day of January, 1977, be composed of a mayor who shall be elected by a general vote and who shall be the head of the council, and six councillors elected by general vote.

Composi-  
tion of  
Capreol town  
council

## PART VI

## THE REGIONAL MUNICIPALITY OF PEEL

s. 2,  
amended

- 13.** Section 2 of *The Regional Municipality of Peel Act, 1973*, being chapter 60, is amended by adding thereto the following subsections:

Portion of  
Brampton  
annexed to  
Mississauga

(1a) That portion of the City of Brampton described as follows is annexed to the City of Mississauga on the 1st day of July, 1975:

That tract of land situate in the City of Brampton, in The Regional Municipality of Peel, formerly in the Township of Toronto Gore, Southern Division, County of Peel, and being composed of part of Lot 13 in Concession IX, east of Hurontario Street, in the said City of Brampton, more particularly described as follows:

Beginning at the most southerly angle of the said Lot 13;

Thence northwesterly along the southwesterly limit of Lot 13, to the southwesterly angle of the Clairville Dam and Reservoir lands owned by the Metropolitan Toronto and Region Conservation Authority and described in an instrument registered in the Land Registry Office for the Registry Division of Peel (No. 43) as Number 142749;

Thence northeasterly along the southerly limit of the Clairville Dam and Reservoir lands as described in the said Instrument Number 142749, 773.23 feet to an angle therein;

Thence northeasterly, continuing along the southerly limit of the Clairville Dam lands, being along the southerly limit of the lands described in an instrument registered in the said Land Registry Office as Number 175348, 523.33 feet, more or less, to the intersection with the easterly limit of the City of Brampton, which is the westerly limit of the allowance for road between the City of Brampton and the Borough of Etobicoke;

Thence southerly along the last-mentioned limit to the southeasterly angle of the said Lot 13;

Thence southwesterly along the southeasterly limit of the said Lot 13 to the place of beginning.

Annexation  
deemed by  
Municipal  
Board order

(1b) Subsection 3 applies *mutatis mutandis* to the annexation provided for in subsection 1a.

SECTION 13. The lands mentioned are annexed from the City of Brampton to the City of Mississauga; the annexation is deemed to be by order of the Municipal Board for the purposes of matters consequent thereon.

SECTION 14. Self-explanatory.

## PART VII

## THE REGIONAL MUNICIPALITY OF HALDIMAND-NORFOLK

- 14.** *The Regional Municipality of Haldimand-Norfolk Act, 1973*, s. 119a, enacted  
being chapter 96, is amended by adding thereto the following  
section:
- 119a. The council of any city in the Regional Area may  
pass any by-law that a board of commissioners of police of a  
city is authorized to pass under *The Municipal Act*.
- 15.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment
- 16.** This Act may be cited as *The Regional Municipalities Amend- Short title  
ment Act, 1975*.



The Regional Municipalities  
Amendment Act, 1975

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*1st Reading*

June 3rd, 1975

*2nd Reading*

*3rd Reading*

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THE HON. W. D. McKEOUGH  
Treasurer of Ontario and  
Minister of Economics and  
Intergovernmental Affairs

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*(Government Bill)*

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BILL 101

(1)

Government  
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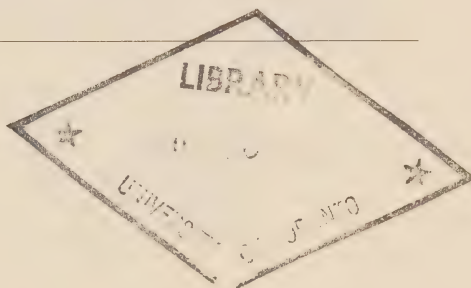
Government Bill

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

## The Regional Municipalities Amendment Act, 1975

Ontario. Legislative Assembly

THE HON. W. D. McKEOUGH  
Treasurer of Ontario and Minister of Economics and  
Intergovernmental Affairs



*(Reprinted as amended by the Committee of the Whole House)*

TORONTO

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#### EXPLANATORY NOTES

SECTION 1. The subsection added provides for the manner in which an area municipality may pay the costs incurred arising out of an agreement to have passenger transport services provided to it outside the Urban Transit Area.

SECTION 2. At present, the Regional Council is empowered to levy against the municipalities in the Urban Transit Area, the sums required to meet any deficit incurred in the operations of the Ottawa-Carleton Regional Transit Commission in the preceding year. The effect of the amendment is to empower the Council to levy in the current year the sums required to meet the anticipated deficit for that year. Subsection 12 provides that the actual 1974 deficit is to be recovered by a levy made in 1975 to be payable in instalments in each of the years 1975, 1976 and 1977. The provisions respecting the apportionment of the levy amongst the various area municipalities and appeals therefrom remain unchanged.

BILL 101

1975

## The Regional Municipalities Amendment Act, 1975

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### PART I

#### THE REGIONAL MUNICIPALITY OF OTTAWA-CARLETON

1. Section 67c of *The Regional Municipality of Ottawa-Carleton Act*, being chapter 407 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1972, chapter 126, section 14, is amended by adding thereto the following subsection:

(6) Where, pursuant to clause *h* of subsection 4, an area municipality has entered into an agreement to provide for passenger transport service outside the Urban Transit Area, the area municipality may pay the costs so incurred, including accumulated deficits, out of its general funds, or, subject to the approval of the Municipal Board as to boundaries, may pass one or more by-laws to impose a special rate or rates in one or more parts of the area municipality which, in the opinion of the council of the area municipality, derive benefit from the provision of passenger transport services.

How costs of service outside Urban Transit Area to be borne

2. Subsections 2 to 12 of section 67d of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 126, section 14, are repealed and the following substituted therefor:

(2) The Regional Council shall annually, by by-law, levy against such of the area municipalities as are wholly or partly within the Urban Transit Area such sums as are, in the opinion of the Regional Council, required to meet any anticipated deficits that may arise out of the total operations of the Commission in such year, and in calculating such levy,

Levy upon area municipalities

- (a) the Regional Council shall take into account the amount of any subsidies received or to be received by the Regional Corporation for such purpose; and
- (b) the Regional Council may, to such extent as it deems proper in the circumstances, include any expenditures made by the Regional Corporation that are related to the provision, planning, or improvements of public transportation services in the Urban Transit Area,

and any such levy made in 1976 and succeeding years shall make due provision for any surplus or deficit arising out of the total operations of the Commission in the preceding year after taking into account the levy made under this subsection and all applicable subsidies.

Apportionment of levy

(3) A by-law enacted under subsection 2 or 12 shall apportion the levy against each of such area municipalities in a manner that, in the opinion of the Regional Council, is just and equitable, and without limiting the generality of the foregoing, the Regional Council, in making such apportionment may have regard to the degree of passenger transport services provided, the financial implications of providing such service, equalized assessment, and any other factors and considerations that are, in the opinion of the Regional Council, relevant.

Equalized assessments

(4) The Ministry of Revenue shall provide to the Regional Corporation such equalized assessment information as it may require for the purposes of any by-law enacted under this section and the provisions of Part VII apply *mutatis mutandis* in the event any equalized assessment is varied by an appeal under that Part or under *The Assessment Act*.

R.S.O. 1970, c. 32

Advances

(5) The Regional Corporation may advance moneys to the Commission from time to time upon such terms and conditions as the Regional Council may prescribe and any moneys so advanced shall be deemed not to reduce the operation deficit referred to in subsection 2 unless the Regional Council otherwise directs.

Payment of levy to Commission

(6) The sums levied under subsection 2, less any advances made under subsection 5, shall be paid by the Regional Corporation to the Commission within thirty days of the making of the levy.

Notice to area municipalities

(7) Within ten days of the passing of a by-law under subsection 1, 2 or 12, the clerk of the Regional Council shall give notice thereof to the clerk of any area municipality affected thereby, by prepaid registered post.





SECTION 3. At present, the Regional Corporation is deemed to be a city for the purposes of the Act mentioned.

SECTION 4. At present, the Regional Corporation is deemed to be a city for the purposes of the Acts mentioned.

(8) Any area municipality affected by a by-law passed under subsection 1, 2 or 12 may appeal to the Municipal Board against such by-law by sending by prepaid registered post to the Municipal Board and to the clerk of the Regional Council a notice in writing setting forth its reasons therefor within thirty days of the passing of such by-law.

Appeal

(9) The Municipal Board shall make such inquiries into the matter as it considers necessary and may by order confirm such by-laws or make such amendments if any, to the by-law as it deems proper in the circumstances, and the order of the Municipal Board is final.

Hearing

(10) If no appeal is made against the by-law as provided in subsection 8, such by-law is valid, final and binding according to its terms so far as the same ordains, prescribes or directs anything within the proper competence of the Regional Council.

Effect of  
by-law

(11) Any area municipality may pay the amounts chargeable to it under any such by-law out of its general funds, or, subject to the approval of the Municipal Board, may pass one or more by-laws to impose a special rate or rates in one or more defined areas to raise the whole or any part of the amount charged to such area municipality.

Special  
levy by  
area muni-  
cipality

(12) Notwithstanding subsection 2, the Regional Council shall, by by-law, levy against such of the area municipalities as are wholly or partly within the Urban Transit Area the sums required to meet the deficit arising out of the total operations of the Commission for the year 1974, and provide for the payment of this levy by instalments on such terms and conditions and at such times during the years 1975, 1976 and 1977 as it deems proper.

1974  
deficit

3. Section 85 of the said Act is repealed and the following substituted therefor:

s. 85,  
re-enacted

85. The Regional Corporation shall be deemed to be a county for the purposes of *The General Welfare Assistance Act*, and no area municipality shall be deemed to be a municipality for the purposes of such Act, except section 2 thereof.

Liability  
of  
Regional  
Corpora-  
tion under  
R.S.O. 1970,  
c. 192

4. Subsection 1 of section 86 of the said Act is repealed and the following substituted therefor:

s. 86 (1),  
re-enacted

(1) The Regional Corporation shall be deemed to be a county for the purposes of *The Homemakers and Nurses Services Act* and *The Day Nurseries Act*, and no area muni-

Liability  
of Region-  
al Corpora-  
tion under  
R.S.O. 1970,  
cc. 203, 104

pality shall be deemed to be a municipality for the purposes of such Acts.

s. 100b,  
enacted

5. The said Act is amended by adding thereto the following section:

Acquiring  
lands for  
parks, etc.

100b.—(1) The Regional Council may pass by-laws for acquiring land for, and establishing, laying out and improving and maintaining, public parks, forests, zoological gardens, recreation areas, squares, avenues, boulevards and drives in the Regional Area and for exercising all or any of the powers that are conferred on boards of park management by *The Public Parks Act*.

R.S.O. 1970,  
c. 384

Sale of  
spirituous,  
etc., liquors  
in parks

(2) In addition to the powers that may be exercised under subsection 1, the Regional Council has power to let from year to year, or for any time not exceeding ten years, the right to sell, subject to *The Liquor Licence Act* and the regulations made thereunder, spirituous, fermented or intoxicating liquors within regional parks under such regulations as the Regional Council may prescribe.

R.S.O. 1970,  
c. 250

Application of  
R.S.O. 1970,  
c. 284

(3) Paragraphs 70 and 71 of section 352 of *The Municipal Act* apply *mutantis mutandis* to the Regional Corporation.

Regional  
Corporation  
a municipi-  
pality under  
R.S.O. 1970,  
c. 337

(4) The Regional Corporation shall be deemed to be a municipality for the purposes of *The Parks Assistance Act*.

Park lands  
owned by  
conservation  
authority, etc.

(5) Where, under an agreement with any conservation authority or the Ministry of Natural Resources, lands vested in the conservation authority, or other lands, are managed and controlled by the Regional Corporation, the Regional Corporation may,

- (a) exercise all or any of the powers conferred on it under subsection 1 in respect of such lands;
- (b) lay out, construct and maintain roads on such lands and, with the consent of the area municipality in which such lands, or any part thereof, are situate and assume the maintenance of existing roads on such lands, or any part thereof;
- (c) subject to *The Highway Traffic Act*, regulate traffic on such roads and prescribe the rate of speed for motor vehicles driven on such roads in accordance with subsection 4 of section 82 of *The Highway Traffic Act*; and

R.S.O. 1970,  
c. 202

SECTION 5. The Regional Corporation is empowered to acquire land for, and establish, public parks. Similar powers are vested in other regional municipalities.



SECTION 6. Responsibility for the disposal of solid waste is transferred to the Regional Corporation.

- (d) notwithstanding the provisions of any other Act, exempt from municipal taxation any such lands for so long as they are managed and controlled by the Regional Corporation and used for park purposes.

(6) An exemption from taxes under subsection 5 shall be deemed to have the same effect as an exemption from taxes under section 3 of *The Assessment Act*. Tax exemption  
R.S.O. 1970,  
c. 32

(7) The Regional Council may agree to pay annually to the area municipality in which any land used for the purposes set out in subsection 1 is situate a sum not exceeding the amount that would have been payable to the municipality as taxes if the land were not exempt from taxation. Payment  
in lieu of  
taxes

6. Section 140a of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 74, section 4, and amended by 1974, chapter 117, section 6, is repealed and the following substituted therefor: s. 140a,  
re-enacted

140a.—(1) In this section, “waste” includes ashes, garbage, refuse, domestic waste, industrial solid waste or municipal refuse, and such other wastes as may be designated by by-law of the Regional Council. Interpre-  
tation

(2) On and after the day this section comes into force, the Regional Corporation shall provide facilities for the purpose of receiving, dumping and disposing of waste, and no such facilities shall be provided in the Regional Area by any area municipality, any local board thereof, or any other person whomsoever, without the consent of the Regional Council. Waste  
disposal

(3) For the purposes of subsection 2, the Regional Corporation may, Powers of  
Regional  
Corporation

- (a) acquire and use land;
- (b) erect, maintain and operate facilities for the purposes of receiving, dumping, treating and disposing of waste;
- (c) contract with Her Majesty in right of Canada, Her Majesty in right of a province, any agency of either of them, a local or regional municipality in Ontario or Quebec, or a local board thereof, or any other person for such purposes;
- (d) prohibit or regulate the dumping, treating and disposing of waste, or any class or classes thereof, upon such land; and

- (e) provide standards and regulations for vehicles, or any class or classes thereof, used for the haulage of waste to a regional waste disposal facility.

Vesting of  
property  
in Regional  
Corporation

(4) The Regional Council may pass one or more by-laws to assume as regional waste disposal works any or all such solid waste disposal sites, works, facilities and equipment vested in any area municipality, and upon the passing of any such by-law, the sites, works, facilities and equipment specified therein shall vest in the Regional Corporation.

Payment of  
outstanding  
debt

(5) The Regional Corporation shall pay to the corporation of any area municipality on or before the due date, all amounts of principal and interest becoming due upon any outstanding debt of such area municipality in respect of the real or personal property assumed by the Regional Corporation under subsection 4.

Compensa-  
tion

(6) Subject to subsection 5, the Regional Corporation shall pay to the area municipality the costs incurred by it in the acquisition of and the improvements made to any such disposal site and works assumed by a by-law passed under subsection 4 and the current value of all equipment assumed therewith.

Interest  
on late  
payment

(7) If the Regional Corporation fails to make any payment required by subsection 5 or 6 on or before the due date, the area municipality may charge the Regional Corporation interest at the rate of 12 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

Approval  
of acquisi-  
tion of  
land

(8) No land shall be acquired under subsection 3 and no by-law shall be passed under subsection 4 without,

- (a) the approval of the area municipality in which the land is situate, which approval may be granted upon such terms and conditions as may be agreed upon; or
- (b) failing such approval or agreement, the approval of the Municipal Board.

Approval  
of  
Ontario  
Municipal  
Board

(9) The Municipal Board, before giving its approval under clause *b* of subsection 8 shall hold a public hearing and shall give or cause to be given at least ten days notice of the hearing to the clerk of the municipality concerned and to such other persons in such manner as the Board may direct, and the Board, as a condition of giving any such approval, may by its order impose such restrictions, limitations and conditions



SECTION 7. The lands mentioned are annexed from the City of Thorold to the City of Welland; the annexation is deemed to be by order of the Municipal Board for the purposes of matters consequent thereon.



respecting the acquisition or use of such land as to the Board may appear necessary or expedient.

(10) For the purposes of this section, the Regional Council shall, by by-law, prescribe rates or charges for the use of its disposal facilities. How cost to be borne

(11) When, in the opinion of the Regional Council, land has been used for solid waste disposal and is no longer required by the Regional Corporation for such purpose, the Regional Corporation shall not dispose of such land without first offering such land to the area municipality within which it is located for nominal consideration upon such terms and conditions as the Regional Council may prescribe. Disposal of sites

(12) Subject to the approval of the Regional Council, an area municipality may, by by-law, prescribe one or more routes to be used by vehicles, or any class or classes thereof, in hauling waste to any regional waste facility located in such area municipality and any such by-law may restrict such vehicles to specified area municipality or regional roads and may provide different restrictions by reference to the days and times set forth in the by-law. Routes

(13) If a by-law passed under subsection 12 is not approved by the Regional Council within a reasonable time, the Municipal Board may approve such by-law. Approval of O.M.B.

(14) The Municipal Board, before giving its approval under subsection 13, shall hold a public hearing and shall give or cause to be given at least ten days notice of the hearing to the clerk of the municipality concerned and to such other persons in such manner as the Board may direct, and the Board, as a condition of giving any such approval, may by its order require such amendments and impose such restrictions, limitations and conditions as to the Board may appear necessary or expedient. Hearing

(15) A by-law passed under paragraph 116 of subsection 1 of section 354 of *The Municipal Act* does not apply to the Regional Corporation. Non-application of by-law under R.S.O. 1970, c. 284, s. 354 (1), par. 116

## PART II

### THE REGIONAL MUNICIPALITY OF NIAGARA

7. Section 2 of *The Regional Municipality of Niagara Act*, being chapter 406 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsections: s. 2, amended

Portion of  
Thorold  
annexed to  
Welland

(1a) That portion of the City of Thorold described as follows is annexed to the City of Welland on the 1st day of July, 1975:

All of the north half of Lot 225 of the former Township of Thorold presently in the City of Thorold.

Annexation  
deemed by  
Municipal  
Board order

(1b) Subsection 3 applies *mutatis mutandis* to the annexation provided for in subsection 1a.

s. 98,  
re-enacted

8. Section 98 of the said Act is repealed and the following substituted therefor:

Regional  
Corporation  
deemed city  
under  
R.S.O. 1970,  
cc. 21, 270,  
422, 490

98.—(1) For the purposes of the following Acts, the Regional Corporation shall be deemed to be a city and no area municipality shall be deemed to be a municipality:

1. *The Anatomy Act.*
2. *The Mental Hospitals Act.*
3. *The Sanatoria for Consumptives Act.*
4. *The War Veterans Burial Act.*

Regional  
Corporation  
deemed  
county  
under  
R.S.O. 1970,  
cc. 104, 192,  
203

(2) For the purposes of the following Acts, the Regional Corporation shall be deemed to be a county and no area municipality shall be deemed to be a municipality:

1. *The Day Nurseries Act.*
2. *The General Welfare Assistance Act.*
3. *The Homemakers and Nurses Services Act.*

s. 176a,  
enacted

9. The said Act is amended by adding thereto the following section:

Welland  
Parks and  
Recreation  
Board  
dissolved

176a.—(1) On the 1st day of July, 1975, the Parks and Recreation Board of the City of Welland is dissolved and the assets and liabilities thereof are vested in and shall be assumed by The Corporation of the City of Welland.

Council of  
Welland  
deemed  
recreation  
committee  
and  
committee  
of  
management  
1974, cc. 120,  
80

(2) The council of the City of Welland shall be deemed to be a recreation committee under *The Ministry of Culture and Recreation Act, 1974*, and a committee of management under *The Community Recreation Centres Act, 1974*, and the regulations thereunder.

SECTION 8. At present, the Regional Corporation is deemed to be a city for the purposes of all the Acts mentioned.

SECTION 9. Self-explanatory.

SECTION 10. The power to license, regulate and govern lodging houses is transferred from the area municipalities to the Regional Corporation.

SECTION 11. The Waterloo Regional health unit and the Waterloo Regional Board of Health are dissolved; the Regional Corporation through the Regional Council will exercise the powers of a local board of health throughout the Regional Area.

## PART III

## THE REGIONAL MUNICIPALITY OF YORK

10. *The Regional Municipality of York Act*, being chapter 408 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

174. On and after the 1st day of July, 1975, paragraph 77 of section 352 of *The Municipal Act* applies *mutatis mutandis* to the Regional Council and no area municipality shall exercise any of the powers under that paragraph.

s. 174,  
enacted

Regional  
Council  
may license  
lodging  
houses, etc.  
R.S.O. 1970,  
c. 284

## PART IV

## THE REGIONAL MUNICIPALITY OF WATERLOO

11. Sections 100 and 101 of *The Regional Municipality of Waterloo Act*, 1972, being chapter 105, are repealed and the following substituted therefor:

s. 100,  
re-enacted  
s. 101,  
repealed

100.—(1) On the 1st day of July, 1975, the Regional Area health unit, and the Waterloo Regional Board of Health are dissolved, and the assets and liabilities of the Board become the assets and liabilities of the Regional Corporation without compensation, and the Regional Corporation shall stand in the place and stead of the Waterloo Regional Board of Health for the purposes of any agreements entered into, orders made, or matters commenced by that Board, and for the purposes of any proceedings which have been or may be instituted against that Board.

Health unit  
and Board  
dissolved

(2) The Regional Corporation shall have all the powers and rights and be subject to all the duties conferred or imposed on a local board of health for a municipality by *The Public Health Act* and shall perform all the functions of such a board, and the functions which would have been performed by the local board or the medical officer of health or the public health inspector of an area municipality shall be performed by the Regional Corporation or the medical officer of health or the health inspector of the Regional Corporation, as the case may be.

Regional  
Corporation  
to have  
powers, etc.,  
of local board  
of health  
R.S.O. 1970,  
c. 377

(3) The Regional Corporation shall be deemed to be a municipality for the purposes of *The Public Health Act*.

Regional  
Corporation  
deemed  
municipality

(4) Section 15 of *The Public Health Act* does not apply to the Regional Corporation, and section 17 of that Act does not apply to the clerk of the Regional Corporation.

Non-  
application  
of  
R.S.O. 1970,  
c. 377, ss. 15, 17



Non-application of R.S.O. 1970, c. 377, ss. 13, 35

(5) Sections 13 and 35 of *The Public Health Act* do not apply to an area municipality.

Regional Corporation deemed local board R.S.O. 1970, c. 377

(6) The Regional Corporation shall be deemed to be a local board of health for a municipality for the purposes of sections 21 and 116 and subsections 2 and 5 of section 99 and Schedule B of *The Public Health Act*.

Clerk deemed secretary of local board of health

(7) The clerk of the Regional Corporation shall be deemed to be the secretary of a local board for the purposes of sections 24 and 62 and subsection 2 of section 23, and subsection 7 of section 48 and Schedule B of *The Public Health Act*.

Application of R.S.O. 1970, c. 377 ss. 33, 96, 118 (2)

(8) For the purposes of sections 33 and 96 and subsection 2 of section 118 of *The Public Health Act*, an order made by the Regional Council pursuant to the powers conferred on the Regional Corporation by this section shall be deemed to be an order made by a local board.

Medical officer of health, etc., deemed appointed under R.S.O. 1970, c. 377, s. 35

(9) The medical officer of health and the public health inspector and all other classes of persons referred to in subsection 5 of section 35 of *The Public Health Act* employed by the Regional Corporation pursuant to subsection 13 shall be deemed to have been duly appointed under section 35 of *The Public Health Act* and shall have all the powers, rights and privileges and be subject to all the duties conferred or imposed upon such persons by that Act or any other Act.

Application of R.S.O. 1970, c. 377, s. 94 (1)

(10) For the purposes of subsection 1 of section 94 of *The Public Health Act* a request to the Minister of Health by the Regional Corporation shall be deemed to be a request by a local board.

Application of R.S.O. 1970, c. 377, ss. 125, 126

(11) The Regional Corporation may exercise the powers conferred by sections 125 and 126 of *The Public Health Act*, and no area municipality may exercise such powers.

Recovery of expenditures

(12) Where the Regional Corporation or the medical officer of health or a public health inspector of the Regional Corporation has incurred expenditures which under *The Public Health Act* may be recovered by levying the amount thereof against rateable property in a municipality or by adding the amount thereof to the collector's roll and collecting such amount in a like manner as municipal taxes, the Regional Council may, by by-law, direct the appropriate area municipality to levy such amount or to add such amount to its collector's roll, as the case may be, and to collect the same in accordance with the provisions of *The Public Health Act*, and the council of an area municipality



SECTION 12. At present, the council of the Town of Capreol is composed of a mayor elected by general vote and six councillors elected by wards.

shall forthwith upon receiving a direction under this subsection comply therewith, and any moneys collected pursuant to this subsection shall forthwith be paid over to the treasurer of the Regional Municipality.

(13) The Regional Corporation shall offer to employ every person who on the 30th day of June, 1975, is employed by the Waterloo Regional Board of Health, and any person who accepts employment offered under this subsection shall be entitled to receive a wage or salary up to and including the 30th day of June, 1976, of not less than he was receiving on the 30th day of June, 1975. Offer of employment

(14) Subsections 2, 3 and 5 of section 27 apply *mutatis mutandis* to the Regional Corporation and to persons employed under subsection 13 as though such persons were employed on the 30th day of June, 1975, by a local board of a local municipality within the Regional Area. Application of s. 27 (2, 3, 5)

(15) Where a person employed under subsection 13 was not employed under a collective agreement on the 30th day of June, 1975, the Regional Corporation shall place to the credit of such person the sick leave credits standing to his credit on such date in the sick leave credit plan of the Waterloo Regional Board of Health. Sick leave credits

(16) Nothing in subsections 13, 14 and 15 prevents the Regional Corporation from terminating the employment of an employee for cause. Termination of employment

## PART V

### THE REGIONAL MUNICIPALITY OF SUDBURY

- 12.** Section 3 of *The Regional Municipality of Sudbury Act, 1972*, being chapter 104, as amended by the Statutes of Ontario, 1972, chapter 167, section 1 and 1974, chapter 54, section 1, is further amended by adding thereto the following subsection: s. 3, amended

(1a) Notwithstanding subsection 1, the council of the Town of Capreol shall, on and after the 1st day of January, 1977, be composed of a mayor who shall be elected by a general vote and who shall be the head of the council, and six councillors elected by general vote. Composition of Capreol town council

## PART VI

## THE REGIONAL MUNICIPALITY OF PEEL

s. 2.  
amended

- 13.** Section 2 of *The Regional Municipality of Peel Act, 1973*, being chapter 60, is amended by adding thereto the following subsections:

Portion of  
Brampton  
annexed to  
Mississauga

(1a) That portion of the City of Brampton described as follows is annexed to the City of Mississauga on the 1st day of July, 1975:

That tract of land situate in the City of Brampton, in The Regional Municipality of Peel, formerly in the Township of Toronto Gore, Southern Division, County of Peel, and being composed of part of Lot 13 in Concession IX, east of Hurontario Street, in the said City of Brampton, more particularly described as follows:

Beginning at the most southerly angle of the said Lot 13;

Thence northwesterly along the southwesterly limit of Lot 13, to the southwesterly angle of the Clairville Dam and Reservoir lands owned by the Metropolitan Toronto and Region Conservation Authority and described in an instrument registered in the Land Registry Office for the Registry Division of Peel (No. 43) as Number 142749;

Thence northeasterly along the southerly limit of the Clairville Dam and Reservoir lands as described in the said Instrument Number 142749, 773.23 feet to an angle therein;

Thence northeasterly, continuing along the southerly limit of the Clairville Dam lands, being along the southerly limit of the lands described in an instrument registered in the said Land Registry Office as Number 175348, 523.33 feet, more or less, to the intersection with the easterly limit of the City of Brampton, which is the westerly limit of the allowance for road between the City of Brampton and the Borough of Etobicoke;

Thence southerly along the last-mentioned limit to the southeasterly angle of the said Lot 13;

Thence southwesterly along the southeasterly limit of the said Lot 13 to the place of beginning.

Annexation  
deemed by  
Municipal  
Board order

(1b) Subsection 3 applies *mutatis mutandis* to the annexation provided for in subsection 1a.



SECTION 13. The lands mentioned are annexed from the City of Brampton to the City of Mississauga; the annexation is deemed to be by order of the Municipal Board for the purposes of matters consequent thereon.

SECTION 14. Self-explanatory.

## PART VII

## THE REGIONAL MUNICIPALITY OF HALDIMAND-NORFOLK

14. *The Regional Municipality of Haldimand-Norfolk Act, 1973*, s. 119a, being chapter 96, is amended by adding thereto the following section:

119a. The council of any city in the Regional Area may pass any by-law that a board of commissioners of police of a city is authorized to pass under *The Municipal Act*.

Licensing  
by-laws  
may be  
passed by  
councils  
of cities  
R.S.O. 1970,  
c. 284

- 15.—(1) This Act, except sections 6, 7, 9, 10, 11 and 13, comes into force on the day it receives Royal Assent.
- (2) Sections 7, 9, 10, 11 and 13 shall be deemed to have come into force on the 1st day of July, 1975.
- (3) Section 6 comes into force on the 1st day of January, 1976.
16. This Act may be cited as *The Regional Municipalities Amendment Act, 1975*.

Commence-  
ment

Idem

Idem

Short title

---

The Regional Municipalities  
Amendment Act, 1975

---

*1st Reading*

June 3rd, 1975

*2nd Reading*

July 3rd, 1975

*3rd Reading*

---

THE HON. W. D. McKEOUGH  
Treasurer of Ontario and  
Minister of Economics and  
Intergovernmental Affairs

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(Reprinted as amended by the  
Committee of the Whole House)

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24 ELIZABETH II, 1975

Ontario. Legislative Assembly

## The Regional Municipalities Amendment Act, 1975

THE HON. W. D. McKEOUGH  
Treasurer of Ontario and Minister of Economics and  
Intergovernmental Affairs



TORONTO

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## The Regional Municipalities Amendment Act, 1975

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### PART I

#### THE REGIONAL MUNICIPALITY OF OTTAWA-CARLETON

1. Section 67*c* of *The Regional Municipality of Ottawa-Carleton Act*, being chapter 407 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1972, chapter 126, section 14, is amended by adding thereto the following subsection:

s. 67*c*,  
amended

(6) Where, pursuant to clause *h* of subsection 4, an area municipality has entered into an agreement to provide for passenger transport service outside the Urban Transit Area, the area municipality may pay the costs so incurred, including accumulated deficits, out of its general funds, or, subject to the approval of the Municipal Board as to boundaries, may pass one or more by-laws to impose a special rate or rates in one or more parts of the area municipality which, in the opinion of the council of the area municipality, derive benefit from the provision of passenger transport services.

How costs  
of service  
outside  
Urban Transit  
Area to be  
borne

2. Subsections 2 to 12 of section 67*d* of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 126, section 14, are repealed and the following substituted therefor:

s. 67*d*  
(2-12),  
re-enacted

(2) The Regional Council shall annually, by by-law, levy against such of the area municipalities as are wholly or partly within the Urban Transit Area such sums as are, in the opinion of the Regional Council, required to meet any anticipated deficits that may arise out of the total operations of the Commission in such year, and in calculating such levy,

Levy upon  
area muni-  
cipalities

- (a) the Regional Council shall take into account the amount of any subsidies received or to be received by the Regional Corporation for such purpose; and
- (b) the Regional Council may, to such extent as it deems proper in the circumstances, include any expenditures made by the Regional Corporation that are related to the provision, planning, or improvements of public transportation services in the Urban Transit Area.

and any such levy made in 1976 and succeeding years shall make due provision for any surplus or deficit arising out of the total operations of the Commission in the preceding year after taking into account the levy made under this subsection and all applicable subsidies.

Apportion-  
ment of  
levy

(3) A by-law enacted under subsection 2 or 12 shall apportion the levy against each of such area municipalities in a manner that, in the opinion of the Regional Council, is just and equitable, and without limiting the generality of the foregoing, the Regional Council, in making such apportionment may have regard to the degree of passenger transport services provided, the financial implications of providing such service, equalized assessment, and any other factors and considerations that are, in the opinion of the Regional Council, relevant.

Equalized  
assessments

(4) The Ministry of Revenue shall provide to the Regional Corporation such equalized assessment information as it may require for the purposes of any by-law enacted under this section and the provisions of Part VII apply *mutatis mutandis* in the event any equalized assessment is varied by an appeal under that Part or under *The Assessment Act*.

R.S.O. 1970,  
c. 32

Advances

(5) The Regional Corporation may advance moneys to the Commission from time to time upon such terms and conditions as the Regional Council may prescribe and any moneys so advanced shall be deemed not to reduce the operation deficit referred to in subsection 2 unless the Regional Council otherwise directs.

Payment of  
levy to  
Commission

(6) The sums levied under subsection 2, less any advances made under subsection 5, shall be paid by the Regional Corporation to the Commission within thirty days of the making of the levy.

Notice to  
area muni-  
cipalities

(7) Within ten days of the passing of a by-law under subsection 1, 2 or 12, the clerk of the Regional Council shall give notice thereof to the clerk of any area municipality affected thereby, by prepaid registered post.

(8) Any area municipality affected by a by-law passed under subsection 1, 2 or 12 may appeal to the Municipal Board against such by-law by sending by prepaid registered post to the Municipal Board and to the clerk of the Regional Council a notice in writing setting forth its reasons therefor within thirty days of the passing of such by-law. Appeal

(9) The Municipal Board shall make such inquiries into the matter as it considers necessary and may by order confirm such by-laws or make such amendments if any, to the by-law as it deems proper in the circumstances, and the order of the Municipal Board is final. Hearing

(10) If no appeal is made against the by-law as provided in subsection 8, such by-law is valid, final and binding according to its terms so far as the same ordains, prescribes or directs anything within the proper competence of the Regional Council. Effect of  
by-law

(11) Any area municipality may pay the amounts chargeable to it under any such by-law out of its general funds, or, subject to the approval of the Municipal Board, may pass one or more by-laws to impose a special rate or rates in one or more defined areas to raise the whole or any part of the amount charged to such area municipality. Special  
levy by  
area muni-  
cipality

(12) Notwithstanding subsection 2, the Regional Council shall, by by-law, levy against such of the area municipalities as are wholly or partly within the Urban Transit Area the sums required to meet the deficit arising out of the total operations of the Commission for the year 1974, and provide for the payment of this levy by instalments on such terms and conditions and at such times during the years 1975, 1976 and 1977 as it deems proper. 1974  
deficit

**3.** Section 85 of the said Act is repealed and the following substituted therefor: s. 85,  
re-enacted

85. The Regional Corporation shall be deemed to be a county for the purposes of *The General Welfare Assistance Act*, and no area municipality shall be deemed to be a municipality for the purposes of such Act, except section 2 thereof. Liability  
of  
Regional  
Corpora-  
tion under  
R.S.O. 1970,  
c. 192

**4.** Subsection 1 of section 86 of the said Act is repealed and the following substituted therefor: s. 86 (1),  
re-enacted

(1) The Regional Corporation shall be deemed to be a county for the purposes of *The Homemakers and Nurses Services Act* and *The Day Nurseries Act*, and no area muni- Liability  
of Region-  
al Corpora-  
tion under  
R.S.O. 1970,  
cc. 203, 104

pality shall be deemed to be a municipality for the purposes of such Acts.

s. 100b,  
enacted

5. The said Act is amended by adding thereto the following section:

Acquiring  
lands for  
parks, etc.

100b.—(1) The Regional Council may pass by-laws for acquiring land for, and establishing, laying out and improving and maintaining, public parks, forests, zoological gardens, recreation areas, squares, avenues, boulevards and drives in the Regional Area and for exercising all or any of the powers that are conferred on boards of park management by *The Public Parks Act*.

R.S.O. 1970,  
c. 384

Sale of  
spirituous,  
etc., liquors  
in parks

(2) In addition to the powers that may be exercised under subsection 1, the Regional Council has power to let from year to year, or for any time not exceeding ten years, the right to sell, subject to *The Liquor Licence Act* and the regulations made thereunder, spirituous, fermented or intoxicating liquors within regional parks under such regulations as the Regional Council may prescribe.

R.S.O. 1970,  
c. 250

Application of  
R.S.O. 1970,  
c. 284

(3) Paragraphs 70 and 71 of section 352 of *The Municipal Act* apply *mutantis mutandis* to the Regional Corporation.

Regional  
Corporation  
a municipi-  
pality under  
R.S.O. 1970,  
c. 337

(4) The Regional Corporation shall be deemed to be a municipality for the purposes of *The Parks Assistance Act*.

Park lands  
owned by  
conservation  
authority, etc.

(5) Where, under an agreement with any conservation authority or the Ministry of Natural Resources, lands vested in the conservation authority, or other lands, are managed and controlled by the Regional Corporation, the Regional Corporation may,

- (a) exercise all or any of the powers conferred on it under subsection 1 in respect of such lands;
- (b) lay out, construct and maintain roads on such lands and, with the consent of the area municipality in which such lands, or any part thereof, are situate and assume the maintenance of existing roads on such lands, or any part thereof;
- (c) subject to *The Highway Traffic Act*, regulate traffic on such roads and prescribe the rate of speed for motor vehicles driven on such roads in accordance with subsection 4 of section 82 of *The Highway Traffic Act*; and

R.S.O. 1970,  
c. 202



- (d) notwithstanding the provisions of any other Act, exempt from municipal taxation any such lands for so long as they are managed and controlled by the Regional Corporation and used for park purposes.

(6) An exemption from taxes under subsection 5 shall be deemed to have the same effect as an exemption from taxes under section 3 of *The Assessment Act*. Tax exemption  
R.S.O. 1970,  
c. 32

(7) The Regional Council may agree to pay annually to the area municipality in which any land used for the purposes set out in subsection 1 is situate a sum not exceeding the amount that would have been payable to the municipality as taxes if the land were not exempt from taxation. Payment  
in lieu of  
taxes

6. Section 140a of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 74, section 4, and amended by 1974, chapter 117, section 6, is repealed and the following substituted therefor: s. 140a,  
re-enacted

140a.—(1) In this section, “waste” includes ashes, garbage, refuse, domestic waste, industrial solid waste or municipal refuse, and such other wastes as may be designated by by-law of the Regional Council. Interpre-  
tation

(2) On and after the day this section comes into force, the Regional Corporation shall provide facilities for the purpose of receiving, dumping and disposing of waste, and no such facilities shall be provided in the Regional Area by any area municipality, any local board thereof, or any other person whomsoever, without the consent of the Regional Council. Waste  
disposal

(3) For the purposes of subsection 2, the Regional Corporation may, Powers of  
Regional  
Corporation

- (a) acquire and use land;
- (b) erect, maintain and operate facilities for the purposes of receiving, dumping, treating and disposing of waste;
- (c) contract with Her Majesty in right of Canada, Her Majesty in right of a province, any agency of either of them, a local or regional municipality in Ontario or Quebec, or a local board thereof, or any other person for such purposes;
- (d) prohibit or regulate the dumping, treating and disposing of waste, or any class or classes thereof, upon such land; and

- (e) provide standards and regulations for vehicles, or any class or classes thereof, used for the haulage of waste to a regional waste disposal facility.

Vesting of  
property  
in Regional  
Corporation

(4) The Regional Council may pass one or more by-laws to assume as regional waste disposal works any or all such solid waste disposal sites, works, facilities and equipment vested in any area municipality, and upon the passing of any such by-law, the sites, works, facilities and equipment specified therein shall vest in the Regional Corporation.

Payment of  
outstanding  
debt

(5) The Regional Corporation shall pay to the corporation of any area municipality on or before the due date, all amounts of principal and interest becoming due upon any outstanding debt of such area municipality in respect of the real or personal property assumed by the Regional Corporation under subsection 4.

Compensa-  
tion

(6) Subject to subsection 5, the Regional Corporation shall pay to the area municipality the costs incurred by it in the acquisition of and the improvements made to any such disposal site and works assumed by a by-law passed under subsection 4 and the current value of all equipment assumed therewith.

Interest  
on late  
payment

(7) If the Regional Corporation fails to make any payment required by subsection 5 or 6 on or before the due date, the area municipality may charge the Regional Corporation interest at the rate of 12 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

Approval  
of acquisi-  
tion of  
land

(8) No land shall be acquired under subsection 3 and no by-law shall be passed under subsection 4 without,

- (a) the approval of the area municipality in which the land is situate, which approval may be granted upon such terms and conditions as may be agreed upon; or
- (b) failing such approval or agreement, the approval of the Municipal Board.

Approval  
of  
Ontario  
Municipal  
Board

(9) The Municipal Board, before giving its approval under clause *b* of subsection 8 shall hold a public hearing and shall give or cause to be given at least ten days notice of the hearing to the clerk of the municipality concerned and to such other persons in such manner as the Board may direct, and the Board, as a condition of giving any such approval, may by its order impose such restrictions, limitations and conditions

respecting the acquisition or use of such land as to the Board may appear necessary or expedient.

(10) For the purposes of this section, the Regional Council shall, by by-law, prescribe rates or charges for the use of its disposal facilities. How cost to be borne

(11) When, in the opinion of the Regional Council, land has been used for solid waste disposal and is no longer required by the Regional Corporation for such purpose, the Regional Corporation shall not dispose of such land without first offering such land to the area municipality within which it is located for nominal consideration upon such terms and conditions as the Regional Council may prescribe. Disposal of sites

(12) Subject to the approval of the Regional Council, an area municipality may, by by-law, prescribe one or more routes to be used by vehicles, or any class or classes thereof, in hauling waste to any regional waste facility located in such area municipality and any such by-law may restrict such vehicles to specified area municipality or regional roads and may provide different restrictions by reference to the days and times set forth in the by-law. Routes

(13) If a by-law passed under subsection 12 is not approved by the Regional Council within a reasonable time, the Municipal Board may approve such by-law. Approval of O.M.B.

(14) The Municipal Board, before giving its approval under subsection 13, shall hold a public hearing and shall give or cause to be given at least ten days notice of the hearing to the clerk of the municipality concerned and to such other persons in such manner as the Board may direct, and the Board, as a condition of giving any such approval, may by its order require such amendments and impose such restrictions, limitations and conditions as to the Board may appear necessary or expedient. Hearing

(15) A by-law passed under paragraph 116 of subsection 1 of section 354 of *The Municipal Act* does not apply to the Regional Corporation. Non-application of by-law under R.S.O. 1970, c. 284, s. 354 (1), par. 116

## PART II

### THE REGIONAL MUNICIPALITY OF NIAGARA

**7.** Section 2 of *The Regional Municipality of Niagara Act*, being chapter 406 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsections: s. 2, amended

Portion of  
Thorold  
annexed to  
Welland

(1a) That portion of the City of Thorold described as follows is annexed to the City of Welland on the 1st day of July, 1975:

All of the north half of Lot 225 of the former Township of Thorold presently in the City of Thorold.

Annexation  
deemed by  
Municipal  
Board order

(1b) Subsection 3 applies *mutatis mutandis* to the annexation provided for in subsection 1a.

s. 98,  
re-enacted

8. Section 98 of the said Act is repealed and the following substituted therefor:

Regional  
Corporation  
deemed city  
under  
R.S.O. 1970,  
cc. 21, 270,  
422, 490

98.—(1) For the purposes of the following Acts, the Regional Corporation shall be deemed to be a city and no area municipality shall be deemed to be a municipality:

1. *The Anatomy Act.*
2. *The Mental Hospitals Act.*
3. *The Sanatoria for Consumptives Act.*
4. *The War Veterans Burial Act.*

Regional  
Corporation  
deemed  
county  
under  
R.S.O. 1970,  
cc. 104, 192,  
203

(2) For the purposes of the following Acts, the Regional Corporation shall be deemed to be a county and no area municipality shall be deemed to be a municipality:

1. *The Day Nurseries Act.*
2. *The General Welfare Assistance Act.*
3. *The Homemakers and Nurses Services Act.*

s. 176a,  
enacted

9. The said Act is amended by adding thereto the following section:

Welland  
Parks and  
Recreation  
Board  
dissolved

176a.—(1) On the 1st day of July, 1975, the Parks and Recreation Board of the City of Welland is dissolved and the assets and liabilities thereof are vested in and shall be assumed by The Corporation of the City of Welland.

Council of  
Welland  
deemed  
recreation  
committee  
and  
committee  
of  
management  
1974, cc. 120,  
80

(2) The council of the City of Welland shall be deemed to be a recreation committee under *The Ministry of Culture and Recreation Act, 1974*, and a committee of management under *The Community Recreation Centres Act, 1974*, and the regulations thereunder.

## PART III

## THE REGIONAL MUNICIPALITY OF YORK

10. *The Regional Municipality of York Act*, being chapter 408 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

174. On and after the 1st day of July, 1975, paragraph 77 of section 352 of *The Municipal Act* applies *mutatis mutandis* to the Regional Council and no area municipality shall exercise any of the powers under that paragraph.

s. 174.  
enacted

Regional  
Council  
may license  
lodging  
houses, etc.  
R.S.O. 1970.  
c. 284

## PART IV

## THE REGIONAL MUNICIPALITY OF WATERLOO

11. Sections 100 and 101 of *The Regional Municipality of Waterloo Act, 1972*, being chapter 105, are repealed and the following substituted therefor:

100.—(1) On the 1st day of July, 1975, the Regional Area health unit, and the Waterloo Regional Board of Health are dissolved, and the assets and liabilities of the Board become the assets and liabilities of the Regional Corporation without compensation, and the Regional Corporation shall stand in the place and stead of the Waterloo Regional Board of Health for the purposes of any agreements entered into, orders made, or matters commenced by that Board, and for the purposes of any proceedings which have been or may be instituted against that Board.

Health unit  
and Board  
dissolved

(2) The Regional Corporation shall have all the powers and rights and be subject to all the duties conferred or imposed on a local board of health for a municipality by *The Public Health Act* and shall perform all the functions of such a board, and the functions which would have been performed by the local board or the medical officer of health or the public health inspector of an area municipality shall be performed by the Regional Corporation or the medical officer of health or the health inspector of the Regional Corporation, as the case may be.

Regional  
Corporation  
to have  
powers, etc.,  
of local board  
of health  
R.S.O. 1970.  
c. 377

(3) The Regional Corporation shall be deemed to be a municipality for the purposes of *The Public Health Act*.

Regional  
Corporation  
deemed  
municipality

(4) Section 15 of *The Public Health Act* does not apply to the Regional Corporation, and section 17 of that Act does not apply to the clerk of the Regional Corporation.

Non-  
application  
of  
R.S.O. 1970.  
c. 377, ss. 15, 17



Non-application of R.S.O. 1970, c. 377, ss. 13, 35

(5) Sections 13 and 35 of *The Public Health Act* do not apply to an area municipality.

Regional Corporation deemed local board R.S.O. 1970, c. 377

(6) The Regional Corporation shall be deemed to be a local board of health for a municipality for the purposes of sections 21 and 116 and subsections 2 and 5 of section 99 and Schedule B of *The Public Health Act*.

Clerk deemed secretary of local board of health

(7) The clerk of the Regional Corporation shall be deemed to be the secretary of a local board for the purposes of sections 24 and 62 and subsection 2 of section 23, and subsection 7 of section 48 and Schedule B of *The Public Health Act*.

Application of R.S.O. 1970, c. 377 ss. 33, 96, 118 (2)

(8) For the purposes of sections 33 and 96 and subsection 2 of section 118 of *The Public Health Act*, an order made by the Regional Council pursuant to the powers conferred on the Regional Corporation by this section shall be deemed to be an order made by a local board.

Medical Officer of health etc., deemed appointed under R.S.O. 1970, c. 377, s. 35

(9) The medical officer of health and the public health inspector and all other classes of persons referred to in subsection 5 of section 35 of *The Public Health Act* employed by the Regional Corporation pursuant to subsection 13 shall be deemed to have been duly appointed under section 35 of *The Public Health Act* and shall have all the powers, rights and privileges and be subject to all the duties conferred or imposed upon such persons by that Act or any other Act.

Application of R.S.O. 1970, c. 377, s. 94 (1)

(10) For the purposes of subsection 1 of section 94 of *The Public Health Act* a request to the Minister of Health by the Regional Corporation shall be deemed to be a request by a local board.

Application of R.S.O. 1970, c. 377, ss. 125, 126

(11) The Regional Corporation may exercise the powers conferred by sections 125 and 126 of *The Public Health Act*, and no area municipality may exercise such powers.

Recovery of expenditures

(12) Where the Regional Corporation or the medical officer of health or a public health inspector of the Regional Corporation has incurred expenditures which under *The Public Health Act* may be recovered by levying the amount thereof against rateable property in a municipality or by adding the amount thereof to the collector's roll and collecting such amount in a like manner as municipal taxes, the Regional Council may, by by-law, direct the appropriate area municipality to levy such amount or to add such amount to its collector's roll, as the case may be, and to collect the same in accordance with the provisions of *The Public Health Act*, and the council of an area municipality

shall forthwith upon receiving a direction under this subsection comply therewith, and any moneys collected pursuant to this subsection shall forthwith be paid over to the treasurer of the Regional Municipality.

(13) The Regional Corporation shall offer to employ every person who on the 30th day of June, 1975, is employed by the Waterloo Regional Board of Health, and any person who accepts employment offered under this subsection shall be entitled to receive a wage or salary up to and including the 30th day of June, 1976, of not less than he was receiving on the 30th day of June, 1975. Offer of employment

(14) Subsections 2, 3 and 5 of section 27 apply *mutatis mutandis* to the Regional Corporation and to persons employed under subsection 13 as though such persons were employed on the 30th day of June, 1975, by a local board of a local municipality within the Regional Area. Application of s. 27 (2, 3, 5)

(15) Where a person employed under subsection 13 was not employed under a collective agreement on the 30th day of June, 1975, the Regional Corporation shall place to the credit of such person the sick leave credits standing to his credit on such date in the sick leave credit plan of the Waterloo Regional Board of Health. Sick leave credits

(16) Nothing in subsections 13, 14 and 15 prevents the Regional Corporation from terminating the employment of an employee for cause. Termination of employment

## PART V

### THE REGIONAL MUNICIPALITY OF SUDBURY

- 12.** Section 3 of *The Regional Municipality of Sudbury Act, 1972*, s. 3, being chapter 104, as amended by the Statutes of Ontario, 1972, chapter 167, section 1 and 1974, chapter 54, section 1, is further amended by adding thereto the following subsection: s. 3, amended

(1a) Notwithstanding subsection 1, the council of the Town of Capreol shall, on and after the 1st day of January, 1977, be composed of a mayor who shall be elected by a general vote and who shall be the head of the council, and six councillors elected by general vote. Composition of Capreol town council

## PART VI

## THE REGIONAL MUNICIPALITY OF PEEL

s. 2.  
amended

- 13.** Section 2 of *The Regional Municipality of Peel Act, 1973*, being chapter 60, is amended by adding thereto the following subsections:

Portion of  
Brampton  
annexed to  
Mississauga

(1a) That portion of the City of Brampton described as follows is annexed to the City of Mississauga on the 1st day of July, 1975:

That tract of land situate in the City of Brampton, in The Regional Municipality of Peel, formerly in the Township of Toronto Gore, Southern Division, County of Peel, and being composed of part of Lot 13 in Concession IX, east of Hurontario Street, in the said City of Brampton, more particularly described as follows:

Beginning at the most southerly angle of the said Lot 13;

Thence northwesterly along the southwesterly limit of Lot 13, to the southwesterly angle of the Clairville Dam and Reservoir lands owned by the Metropolitan Toronto and Region Conservation Authority and described in an instrument registered in the Land Registry Office for the Registry Division of Peel (No. 43) as Number 142749;

Thence northeasterly along the southerly limit of the Clairville Dam and Reservoir lands as described in the said Instrument Number 142749, 773.23 feet to an angle therein;

Thence northeasterly, continuing along the southerly limit of the Clairville Dam lands, being along the southerly limit of the lands described in an instrument registered in the said Land Registry Office as Number 175348, 523.33 feet, more or less, to the intersection with the easterly limit of the City of Brampton, which is the westerly limit of the allowance for road between the City of Brampton and the Borough of Etobicoke;

Thence southerly along the last-mentioned limit to the southeasterly angle of the said Lot 13;

Thence southwesterly along the southeasterly limit of the said Lot 13 to the place of beginning.

Annexation  
deemed by  
Municipal  
Board order

(1b) Subsection 3 applies *mutatis mutandis* to the annexation provided for in subsection 1a.

## PART VII

## THE REGIONAL MUNICIPALITY OF HALDIMAND-NORFOLK

- 14.** *The Regional Municipality of Haldimand-Norfolk Act, 1973*, s. 119a, enacted  
being chapter 96, is amended by adding thereto the following  
section:
- 119a. The council of any city in the Regional Area may  
pass any by-law that a board of commissioners of police of a  
city is authorized to pass under *The Municipal Act*.
- Licensing  
by-laws  
may be  
passed by  
councils  
of cities  
R.S.O. 1970.  
c. 284
- 15.**—(1) This Act, except sections 6, 7, 9, 10, 11 and 13, comes  
into force on the day it receives Royal Assent.
- Commence-  
ment
- (2) Sections 7, 9, 10, 11 and 13 shall be deemed to have come  
into force on the 1st day of July, 1975.
- Idem
- (3) Section 6 comes into force on the 1st day of January, 1976.
- Idem
- 16.** This Act may be cited as *The Regional Municipalities Amend- Short title  
ment Act, 1975*.

# BILL 101

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## The Regional Municipalities Amendment Act, 1975

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*1st Reading*

June 3rd, 1975

*2nd Reading*

July 3rd, 1975

*3rd Reading*

July 3rd, 1975

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THE HON. W. D. McKEOUGH  
Treasurer of Ontario and  
Minister of Economics and  
Intergovernmental Affairs

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A20N  
KB  
-B56

**BILL 102**

Government  
Publications  
**Private Member's Bill**

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

**Ontario. Legislative Assembly**

**An Act to amend The Consumer Reporting Act, 1973**

MR. REID



TORONTO  
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTE

The purpose of the Bill is to prevent the selling of personal information contained in consumer reports to persons outside Ontario. The Bill would also prohibit the selling of lists of names and addresses of persons contained in consumer reporting files.

BILL 102

1975

**An Act to amend  
The Consumer Reporting Act, 1973**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 8 of *The Consumer Reporting Act, 1973*, being <sup>s. 8, amended</sup> chapter 97, is amended by adding thereto the following subsections:

(2a) Except with the written consent of the Registrar, <sup>No reports outside Ontario</sup> no consumer reporting agency and no officer or employee thereof shall furnish any information from the files of the consumer reporting agency to a person who does not reside in Ontario.

(3a) Except with the written consent of the Registrar and <sup>Idem</sup> subject to subsection 3, no consumer reporting agency and no officer or employee thereof shall furnish a list of names or addresses of consumers from the files of the consumer reporting agency to any person.

2. Section 24 of the said Act is amended by adding thereto <sup>s. 24, amended</sup> the following clause:

(l) prescribing the form of security to be provided by consumer reporting agencies in order to prevent unauthorized persons from having access to consumer reports.

3. This Act comes into force on the day it receives Royal Assent. <sup>Commence-ment</sup>
4. This Act may be cited as *The Consumer Reporting Amend- Short title  
ment Act, 1975*.

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## BILL 102

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An Act to amend  
The Consumer Reporting  
Act, 1973

---

*1st Reading*

June 3rd, 1975

*2nd Reading*

*3rd Reading*

---

MR. REID

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*(Private Member's Bill)*

CA20N

XB

-B 56

BILL 103

Government Bill

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

**An Act to amend  
The Public Service Superannuation Act**

**Ontario. Legislative Assembly**

THE HON. J. W. SNOW  
Minister of Government Services



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



#### EXPLANATORY NOTES

SECTION 1.—Subsection 1. The amendment is to make it clear that a person who contributes to the Canada Pension Plan is not disqualified as a contributor under this Act.

Subsections 2 and 3. Widower is defined to include a common law widower.

## An Act to amend The Public Service Superannuation Act

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clause *d* of subsection 1 of section 1 of *The Public Service Superannuation Act*, being chapter 387 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 1 and 1974, chapter 37, section 1, is further amended by adding at the end thereof “and the Canada Pension Plan”. s. 1 (1) (d),  
amended
  
- (2) Subsection 1 of the said section 1, as amended by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 1, 1972, chapter 1, section 76 and 1974, chapter 37, section 1, is further amended by adding thereto the following clause: s. 1 (1),  
amended
  - (i) “widower” includes a man who,
    - (i) establishes to the satisfaction of the Board that he had, for a period of not less than seven years immediately prior to the death of a contributor with whom he had been residing and with whom by law he was prohibited from marrying by reason of a previous marriage either of the contributor or of himself to another person, been maintained and publicly represented by the contributor as her husband, or
    - (ii) establishes to the satisfaction of the Board that he had, for a number of years immediately prior to the death of a contributor with whom he had been residing, been maintained and publicly represented by the con-

tributor as her husband, and that at the time of the death of the contributor, neither he nor the contributor was married to any other person.

s. 1,  
amended

- (3) The said section 1 is amended by adding thereto the following subsection:

When  
common-law  
husband  
deemed  
married to  
contributor

(3) For the purposes of this Act, a man who has established to the satisfaction of the Board that he is a widower under subclause i or ii of clause *i* of subsection 1 shall, if the Board so directs, be deemed to have become married to the contributor at such time as he commenced being represented by her as her husband, and a man who could establish that he is a widower under subclause i or ii of clause *i* of subsection 1 but for his marriage to a contributor after such time as he commenced being represented by her as her husband shall, if the Board so directs, be deemed to have become married to the contributor at the time when, in fact, he commenced being so represented.

s. 6,  
amended

2. Section 6 of the said Act is amended by striking out “3 per cent per annum compounded half-yearly” in the second and third lines and inserting in lieu thereof “5 per cent per annum compounded annually”.

s. 8 (1) (*d*),  
amended

- 3.—(1) Clause *d* of subsection 1 of section 8 of the said Act is amended by adding at the end thereof “at such rate as the Board determines”.

s. 8 (6),  
amended

- (2) Subsection 6 of the said section 8, as enacted by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 2 and amended by 1974, chapter 37, section 4, is further amended by inserting after “may” in the fifth line “elect to”.

s. 9 (1),  
re-enacted

- 4.—(1) Subsection 1 of section 9 of the said Act is repealed and the following substituted therefor:

Leave of  
absence  
contribu-  
tions

(1) A contributor who is granted leave of absence of more than one month without salary because of illness or pregnancy may make contributions to the Fund for the period of leave, in which case the contributor shall contribute an amount equal to the amount the contributor would have contributed to the Fund if leave had not been granted, and such contribution shall be made within six months of the termination of leave, or the contributor may elect not to make such contribution, in which case the contributor is not entitled to credit for the period of the leave.

SECTION 2. The amendment increases the interest payable under the Act, where not otherwise specifically provided, from 3 to 5 per cent.

SECTION 3.—Subsection 1. The amendment provides that interest payable in respect of amounts paid for past service shall be at such rate as is determined by the Board.

Subsection 2. The amendment is to make the section authorizing a contributor to establish credit for past service consistent with other provisions in the Act which refer to an election by the contributor to establish credit.

SECTION 4. The amendments provide that contributions in relation to leave of absence which are now mandatory will hereafter be permissive and provides an open option to make such contributions at any time before the person ceases to be a contributor under the Act.

SECTION 5. The amendments are to make it clear that the entitlement to a superannuation allowance commences on the first day of the month next following the month in which the contributor retired.

SECTION 6. The amendments are to make it clear that the entitlement to a disability allowance commences on the first day of the month next following the month in which the contributor terminated his service.



- (2) The said section 9 is amended by adding thereto the following subsection: s. 9, amended

(4) Any contributor who is entitled under subsection 1, 2 or 3 to credit in the Fund but who has failed to establish credit in respect of the contributor's period of leave under subsection 1, 2 or 3 may elect to establish credit at any time before ceasing to be a contributor, and the relevant provisions of this section apply *mutatis mutandis*, except that the rate of salary on which the contribution would be based shall be deemed to be equal to the rate of salary authorized to be paid to the contributor at the time the election was made and interest shall not be added. Open option

- 5.—(1) Subsection 1 of section 11 of the said Act is amended by adding at the commencement thereof "Subject to subsection 4". s. 11 (1), amended

- (2) Subsection 2 of the said section 11 is amended by adding at the commencement thereof "Subject to subsection 4". s. 11 (2), amended

- (3) Subsection 3 of the said section 11, as enacted by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 3 and amended by 1974, chapter 37, section 6, is further amended by adding at the commencement thereof "Subject to subsection 4". s. 11 (3), amended

- (4) The said section 11 is further amended by adding thereto the following subsection: s. 11, amended

(4) The entitlement to a superannuation allowance, subject to section 14, commences on the first day of the month next following the month in which the contributor retired. Commencement of entitlement to superannuation allowance

- 6.—(1) Subsection 1 of section 12 of the said Act is amended by adding at the commencement thereof "Subject to subsection 1a". s. 12 (1), amended

- (2) The said section 12, as amended by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 4, is further amended by adding thereto the following subsection: s. 12, amended

(1a) The entitlement to a disability allowance, subject to section 14, commences on the first day of the month next following the month in which the contributor terminated his service. Commencement of entitlement to disability allowance

s. 12 (4),  
re-enacted

- (3) Subsection 4 of the said section 12, as re-enacted by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 4, is repealed and the following substituted therefor:

Where  
offer  
not  
accepted

(4) Where a person does not accept the offer, he is entitled to a deferred annuity or to an immediate annuity in accordance with the provisions of section 13, except that if he is entitled to an immediate annuity under section 13, the date on which he declined the offer of employment shall be deemed to be the date on which he ceased to be employed under that section.

s. 13,  
amended

7. Section 13 of the said Act, as amended by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 5, is further amended by adding thereto the following subsections:

Commence-  
ment of  
entitlement  
under  
subsection 1

(1a) The entitlement to a deferred annuity under clause *a* or *b* of subsection 1, subject to section 14, commences on the first day of the month next following the month in which the contributor attained the age of sixty-five years or sixty years, respectively.

. . . . .

Commence-  
ment of  
entitlement  
under  
subsection 2

(2a) The entitlement to a deferred annuity under clause *a* or *b* of subsection 2, subject to section 14, commences on the first day of the month next following the month in which the contributor attained the age of sixty years or sixty-five years, respectively.

. . . . .

Commence-  
ment of  
entitlement  
under  
subsection 3

(3a) The entitlement to an immediate annuity under clause *a* or *b* of subsection 3, subject to section 14, commences on the first day of the month next following the month in which the contributor ceased to be employed.

. . . . .

Commence-  
ment of  
entitlement  
under  
subsection 4

(4a) The entitlement to the immediate annuity under subsection 4, subject to section 14, commences on the first day of the month next following the month in which the contributor elected to take the immediate annuity.

. . . . .

Commence-  
ment of  
entitlement  
under  
subsection 5

(5a) The entitlement to an immediate annuity under clause *a* or *b* of subsection 5, subject to section 14, commences on the first day of the month next following the

SECTION 7. The amendments are similar to those in sections 5 and 6 and clarify the commencement of entitlement to a deferred or an immediate annuity.

SECTION 8. The amendment is to make it clear that where a person retires on or after reaching age sixty-five or dies before being eligible for an allowance, he or his spouse or child is entitled to receive twice his contributions with interest and any other moneys paid into the Fund to his credit for past service or military service, etc., with interest.

SECTION 9.—Subsection 1. The amendment is to clarify the commencement of the entitlement of widows, widowers and children to the payment of allowances.

Subsection 2. The amendment is for the same purpose as the amendment in section 8 in relation to post retirement marriages.

SECTION 10. The new section 20*a* provides for contributions to be made on behalf of a disabled contributor who is qualified to receive benefits under an approved long term income protection plan.

month in which the contributor or person elected to take the immediate annuity.

8. Section 18 of the said Act, as re-enacted by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 7, is amended by striking out "to the Fund with interest" in the fifteenth and sixteenth lines and inserting in lieu thereof "under section 7, with interest thereon, together with all other moneys paid into the Fund that entitle him or her to credit in the Fund, with interest thereon". s. 18,  
amended

- 9.—(1) Section 20 of the said Act, as amended by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 8 and 1974, chapter 37, section 10, is further amended by adding thereto the following subsection: s. 20,  
amended

(2a) The entitlement to the payment,

(a) of the amount referred to in subclause i or ii of clause *a* of subsection 2; or Commence-  
ment of  
entitlement  
to payment  
under  
subsection 2

(b) of the amount referred to in subclause i or ii of clause *b* of subsection 2,

commences on the first day of the month next following the month in which the contributor or person died.

- (2) Subsection 6 of the said section 20 is amended by striking out "with interest" in the fifth line and inserting in lieu thereof "under section 7, with interest thereon, together with all other moneys paid into the Fund that entitle him to credit in the Fund, with interest thereon". s. 20 (6),  
amended

10. The said Act is amended by adding thereto the following section: s. 20a,  
enacted

20a.—(1) In this section, "approved long term income protection plan" means a plan established pursuant to *The Public Service Act*. Long term  
income  
protection  
plan  
R.S.O. 1970,  
c. 386

(2) Where a contributor who is not in receipt of an allowance or annuity under this Act and whose disability was incurred on or after the 1st day of July, 1974 has qualified for a benefit under an approved long term income protection plan, whether or not he is in receipt of such benefit, a contribution shall be made to the Fund on behalf of the contributor, out of moneys appropriated therefor by the Legislature, for each month or part of a month in respect of which the contributor continues to qualify for such a benefit and the contribution shall be 6 per cent of the salary Contribution  
on behalf of  
disabled  
contributor



authorized to be paid to the contributor in the month immediately prior to the month in which he qualified for the benefit.

Period  
deemed  
contributory  
service

(3) The period for which contributions are required to be made under subsection 1 shall be counted as contributory service.

s. 21,  
re-enacted

**11.** Section 21 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 40, section 4, is repealed and the following substituted therefor:

Payment  
of  
allowances  
and  
annuities

21. An allowance or annuity to which a person becomes entitled under this Act is payable in monthly instalments commencing with the month in which the person becomes entitled thereto, but in the first instance payment thereof shall commence as soon as practicable after the entitlement thereto occurred.

s. 28 (2),  
amended

**12.—(1)** Subsection 2 of section 28 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 37, section 12, is amended by adding thereto the following clause:

(ca) the staff of,

(i) any Government related agency,

(ii) any public institution that is assisted by money appropriated by the Legislature, and

(iii) any corporation the controlling interest of which is owned by the Crown in right of Ontario or whose bonds or debentures are guaranteed by the Crown in right of Ontario,

that is designated by the Lieutenant Governor in Council.

s. 28 (3),  
amended

**(2)** Subsection 3 of the said section 28 is amended by adding thereto the following clause:

(ca) the staff of,

(i) any Government related agency,

(ii) any public institution that is assisted by money appropriated by the Legislature, and

(iii) any corporation the controlling interest of which is owned by the Crown in right of

SECTION 11. Section 21 is revised for the purpose of clarification in line with the provisions in sections 5, 6 and 7 clarifying the commencement of entitlement to allowances, etc., and provides for payment in the first instance after entitlement occurs.

SECTION 12.—Subsections 1, 2 and 5. The provisions authorizing transfers from the Fund to another superannuation fund and *vice versa*, are amended to apply to Government related agencies designated by the Lieutenant Governor in Council.

Subsection 3. The purpose of the amendment is to make it clear that a transfer from a registered pension plan of a religious denomination applies where the clergyman becomes a chaplain in the public service of Ontario.

Subsection 4. For the purpose of clarification only.

SECTION 13. The amendment is for clarification only.

SECTION 14.—Subsection 1. The provision authorizing contributors to establish credit for military service in World War II and the Korean War are extended to active service in the Canadian and British Merchant Marine and in allied forces designated by the Lieutenant Governor in Council.

Subsection 2. The period within which a present contributor may establish credit for military service is extended one year for the purpose of including service in the Merchant Marine and in allied forces as described in subsection 1.

Subsection 3. The amendment is for clarification only.

SECTION 15. Section 34*a* authorizes the Board to direct payment of a refund to the estate of a deceased contributor where the spouse or child who would be entitled to a lump sum payment or to an allowance cannot be found within one year after the death of the contributor and makes provision for payment to the spouse or child when subsequently found.

Section 34*b* authorizes the Board to direct payment to a child under the age of eighteen years, if any, or to the estate of a deceased contributor of moneys payable to his spouse where the Board is satisfied that the spouse is not entitled to receive such moneys by virtue of a separation agreement or other contractual arrangement or refuses to accept the moneys.

Ontario or whose bonds or debentures are guaranteed by the Crown in right of Ontario,

that is designated by the Lieutenant Governor in Council.

(3) Clause *g* of subsection 3 of the said section 28 is amended by adding at the end thereof "in any province of Canada and who becomes a chaplain in the public service of Ontario". s. 28 (3) (*g*),  
amended

(4) Subsection 6 of the said section 28 is amended by inserting after "may" in the third line "elect to". s. 28 (6),  
amended

(5) Subsection 8 of the said section 28 is amended by striking out "Crown corporation" in the fourth and fifth lines and inserting in lieu thereof "corporation, Government related agency". s. 28 (8),  
amended

**13.** Subsection 5 of section 29 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 37, section 13, is amended by inserting after "may" in the third line "elect to". s. 29 (5),  
amended

**14.—**(1) Subsection 1 of section 29*a* of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 37, section 14, is repealed and the following substituted therefor: s. 29*a* (1),  
re-enacted

(1) Every contributor who was on active service during World War II or the Korean War, Military  
service

(*a*) in His or Her Majesty's naval, army or air forces or in the Canadian or British Merchant Marine; or

(*b*) in any naval, army or air force that was allied with His or Her Majesty's forces and that is designated by the Lieutenant Governor in Council,

may, on producing proof of such service, establish credit in the Fund in respect of such service.

(2) Subsection 2 of the said section 29*a* is amended by striking out "one year" in the third line and inserting in lieu thereof "two years". s. 29*a* (2),  
amended

(3) Subsection 4 of the said section 29*a* is amended by inserting after "may" in the third line "elect to". s. 29*a* (4),  
amended

**15.** The said Act is further amended by adding thereto the following sections: ss. 34*a*, 34*b*,  
enacted

Refund  
to estate  
of deceased  
contributor  
where spouse  
or child  
cannot be  
found

34a.—(1) Where a spouse or child of a deceased contributor cannot be found and the Board is satisfied that reasonable inquiries have been made to find the spouse or child and more than one year has passed since the death of the contributor, the Board may, notwithstanding any other provision of this Act, direct that the moneys that would be payable under this Act to the deceased contributor's estate if the contributor had died leaving no widow or widower and no child be paid to the deceased contributor's estate upon such terms and conditions as the Board directs.

Where  
spouse  
or child  
later  
found

(2) Where the spouse or child referred to in subsection 1 is subsequently found and a claim is made for any moneys payable under this Act, the Board may direct that such moneys, less any moneys paid under subsection 1, be paid to the spouse or child, as the case may be.

Payment to  
child or  
estate of  
deceased  
contributor  
where spouse  
not entitled  
to or  
refuses to  
accept  
moneys

34b. Where a contributor dies and any moneys are payable under this Act to his spouse and the Board is satisfied that the spouse is not entitled to receive such moneys by virtue of a separation agreement or other contractual arrangement entered into with the contributor before he died or that the spouse has refused to accept such moneys, the Board may direct that,

- (a) where there is a child under the age of eighteen years, the moneys be paid in accordance with this Act as if there were no spouse; and
- (b) if there is no child under the age of eighteen years, the moneys that would be payable under this Act to the deceased contributor's estate if the contributor had died leaving no widow or widower and no child be paid to the deceased contributor's estate.

s. 39,  
enacted

**16.** The said Act is further amended by adding thereto the following section:

Augmenta-  
tion of  
allowances  
and  
annuities

39.—(1) The Lieutenant Governor in Council, for the purpose of augmenting from time to time allowances and annuities being paid under this Act, may make regulations providing for the payment of supplementary benefits and minimum amounts to persons receiving allowances or annuities under this Act and prescribing the minimum amounts and the amounts of such benefits, the times at which they shall be paid and the classes of persons entitled thereto.

Moneys  
required to  
augment  
allowances,  
etc.

(2) The moneys required for the purposes of subsection 1 shall be credited to the Fund out of the Consolidated Revenue Fund.



SECTION 16. The Lieutenant Governor in Council is authorized to pass regulations to augment allowances and annuities being paid under the Act.

SECTION 17. The provision increasing certain allowances in 1961 to the minimum amount provided at that time is repealed.

- 17.** Section 19 of *The Public Service Superannuation Amendment Act, 1960-61*, being chapter 84, is repealed. <sup>Repeal</sup>
- 18.**—(1) This Act, except subsection 3 of section 12 and sections 10 and 14, comes into force on the day it receives Royal Assent. <sup>Commence-  
ment</sup>
- (2) Subsection 3 of section 12 and section 14 shall be deemed <sup>Idem</sup> to have come into force on the 18th day of June, 1974.
- (3) Section 10 shall be deemed to have come into force on the <sup>Idem</sup> 1st day of January, 1975.
- 19.** This Act may be cited as *The Public Service Superannuation Amendment Act, 1975*. <sup>Short title</sup>

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An Act to amend  
The Public Service Superannuation  
Act

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*1st Reading*

June 10th, 1975

*2nd Reading*

*3rd Reading*

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THE HON. J. W. SNOW  
Minister of Government Services

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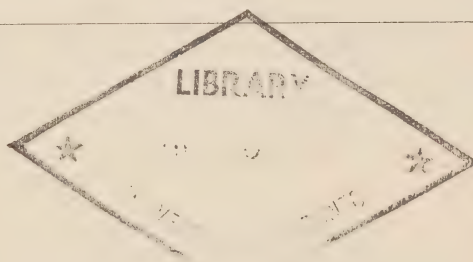
(*Government Bill*)

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

**An Act to amend  
The Public Service Superannuation Act**

**Ontario, Legislative Assembly**

THE HON. J. W. SNOW  
Minister of Government Services



*(Reprinted as amended by the Committee of the Whole House)*

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



#### EXPLANATORY NOTES

SECTION 1.—Subsection 1. The amendment is to make it clear that a person who contributes to the Canada Pension Plan is not disqualified as a contributor under this Act.





Subsection 2. The amendment is complementary to subsection 3.



Subsections 3 and 4. Widower is defined to include a common law widower.

## An Act to amend The Public Service Superannuation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clause *d* of subsection 1 of section 1 of *The Public Service Superannuation Act*, being chapter 387 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 1 and 1974, chapter 37, section 1, is further amended by adding at the end thereof “and the Canada Pension Plan”. s. 1 (1) (d),  
amended
-  (2) Subclause ii of clause *h* of subsection 1 of the said section 1 is amended by striking out “number of years” in the second line and inserting in lieu thereof “period of not less than twelve consecutive months”. s. 1 (1), (h),  
(ii), amended 
- (3) Subsection 1 of the said section 1, as amended by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 1, 1972, chapter 1, section 76 and 1974, chapter 37, section 1, is further amended by adding thereto the following clause: s. 1 (1),  
amended
  - (i) “widower” includes a man who,
    - (i) establishes to the satisfaction of the Board that he had, for a period of not less than seven years immediately prior to the death of a contributor with whom he had been residing and with whom by law he was prohibited from marrying by reason of a previous marriage either of the contributor or of himself to another person, been maintained and publicly represented by the contributor as her husband, or
    - (ii) establishes to the satisfaction of the Board that he had, for a period of not less than twelve consecutive months immediately prior

to the death of a contributor with whom he had been residing, been maintained and publicly represented by the contributor as her husband, and that at the time of the death of the contributor, neither he nor the contributor was married to any other person.

s. 1,  
amended

- (4) The said section 1 is amended by adding thereto the following subsection:

When  
common-law  
husband  
deemed  
married to  
contributor

(3) For the purposes of this Act, a man who has established to the satisfaction of the Board that he is a widower under subclause i or ii of clause *i* of subsection 1 shall, if the Board so directs, be deemed to have become married to the contributor at such time as he commenced being represented by her as her husband, and a man who could establish that he is a widower under subclause i or ii of clause *i* of subsection 1 but for his marriage to a contributor after such time as he commenced being represented by her as her husband shall, if the Board so directs, be deemed to have become married to the contributor at the time when, in fact, he commenced being so represented.

s. 6,  
amended

2. Section 6 of the said Act is amended by striking out "3 per cent per annum compounded half-yearly" in the second and third lines and inserting in lieu thereof "5 per cent per annum compounded annually".

s. 8 (1) (*d*).  
amended

- 3.—(1) Clause *d* of subsection 1 of section 8 of the said Act is amended by adding at the end thereof "at such rate as the Board determines".

s. 8 (6),  
amended

- (2) Subsection 6 of the said section 8, as enacted by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 2 and amended by 1974, chapter 37, section 4, is further amended by inserting after "may" in the fifth line "elect to".

s. 9 (1).  
re-enacted

- 4.—(1) Subsection 1 of section 9 of the said Act is repealed and the following substituted therefor:

Leave of  
absence  
contribu-  
tions

(1) A contributor who is granted leave of absence of more than one month without salary because of illness or pregnancy may make contributions to the Fund for the period of leave, in which case the contributor shall contribute an amount equal to the amount the contributor would have contributed to the Fund if leave had not been granted, and such contribution shall be made within six months of the termination of leave, or the contributor may elect not to make such contribution, in which case the contributor is not entitled to credit for the period of the leave.

SECTION 2. The amendment increases the interest payable under the Act, where not otherwise specifically provided, from 3 to 5 per cent.

SECTION 3.—Subsection 1. The amendment provides that interest payable in respect of amounts paid for past service shall be at such rate as is determined by the Board.

Subsection 2. The amendment is to make the section authorizing a contributor to establish credit for past service consistent with other provisions in the Act which refer to an election by the contributor to establish credit.

SECTION 4. The amendments provide that contributions in relation to leave of absence which are now mandatory will hereafter be permissive and provides an open option to make such contributions at any time before the person ceases to be a contributor under the Act.

SECTION 5. The amendments are to make it clear that the entitlement to a superannuation allowance commences on the first day of the month next following the month in which the contributor retired.

SECTION 6. The amendments are to make it clear that the entitlement to a disability allowance commences on the first day of the month next following the month in which the contributor terminated his service.



- (2) The said section 9 is amended by adding thereto the following subsection: s. 9, amended

(4) Any contributor who is entitled under subsection 1, 2 or 3 to credit in the Fund but who has failed to establish credit in respect of the contributor's period of leave under subsection 1, 2 or 3 may elect to establish credit at any time before ceasing to be a contributor, and the relevant provisions of this section apply *mutatis mutandis*, except that the rate of salary on which the contribution would be based shall be deemed to be equal to the rate of salary authorized to be paid to the contributor at the time the election was made and interest shall not be added. Open option

- 5.—(1) Subsection 1 of section 11 of the said Act is amended by adding at the commencement thereof "Subject to subsection 4". s. 11 (1), amended

- (2) Subsection 2 of the said section 11 is amended by adding at the commencement thereof "Subject to subsection 4". s. 11 (2), amended

- (3) Subsection 3 of the said section 11, as enacted by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 3 and amended by 1974, chapter 37, section 6, is further amended by adding at the commencement thereof "Subject to subsection 4". s. 11 (3), amended

- (4) The said section 11 is further amended by adding thereto the following subsection: s. 11, amended

(4) The entitlement to a superannuation allowance, subject to section 14, commences on the first day of the month next following the month in which the contributor retired. Commencement of entitlement to superannuation allowance

- 6.—(1) Subsection 1 of section 12 of the said Act is amended by adding at the commencement thereof "Subject to subsection 1a". s. 12 (1), amended

- (2) The said section 12, as amended by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 4, is further amended by adding thereto the following subsection: s. 12, amended

(1a) The entitlement to a disability allowance, subject to section 14, commences on the first day of the month next following the month in which the contributor terminated his service. Commencement of entitlement to disability allowance

s. 12 (4),  
re-enacted

- (3) Subsection 4 of the said section 12, as re-enacted by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 4, is repealed and the following substituted therefor:

Where  
offer  
not  
accepted

(4) Where a person does not accept the offer, he is entitled to a deferred annuity or to an immediate annuity in accordance with the provisions of section 13, except that if he is entitled to an immediate annuity under section 13, the date on which he declined the offer of employment shall be deemed to be the date on which he ceased to be employed under that section.

s. 13,  
amended

7. Section 13 of the said Act, as amended by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 5, is further amended by adding thereto the following subsections:

Commence-  
ment of  
entitlement  
under  
subsection 1

(1a) The entitlement to a deferred annuity under clause *a* or *b* of subsection 1, subject to section 14, commences on the first day of the month next following the month in which the contributor attained the age of sixty-five years or sixty years, respectively.

. . . . .

Commence-  
ment of  
entitlement  
under  
subsection 2

(2a) The entitlement to a deferred annuity under clause *a* or *b* of subsection 2, subject to section 14, commences on the first day of the month next following the month in which the contributor attained the age of sixty years or sixty-five years, respectively.

. . . . .

Commence-  
ment of  
entitlement  
under  
subsection 3

(3a) The entitlement to an immediate annuity under clause *a* or *b* of subsection 3, subject to section 14, commences on the first day of the month next following the month in which the contributor ceased to be employed.

. . . . .

Commence-  
ment of  
entitlement  
under  
subsection 4

(4a) The entitlement to the immediate annuity under subsection 4, subject to section 14, commences on the first day of the month next following the month in which the contributor elected to take the immediate annuity.

. . . . .

Commence-  
ment of  
entitlement  
under  
subsection 5

(5a) The entitlement to an immediate annuity under clause *a* or *b* of subsection 5, subject to section 14, commences on the first day of the month next following the

SECTION 7. The amendments are similar to those in sections 5 and 6 and clarify the commencement of entitlement to a deferred or an immediate annuity.

SECTION 8. The amendment is to make it clear that where a person retires on or after reaching age sixty-five or dies before being eligible for an allowance, he or his spouse or child is entitled to receive twice his contributions with interest and any other moneys paid into the Fund to his credit for past service or military service, etc., with interest.

SECTION 9.—Subsection 1. The amendment is to clarify the commencement of the entitlement of widows, widowers and children to the payment of allowances.

Subsection 2. The amendment is for the same purpose as the amendment in section 8 in relation to post retirement marriages.

SECTION 10. The new section 20a provides for contributions to be made on behalf of a disabled contributor who is qualified to receive benefits under an approved long term income protection plan.

month in which the contributor or person elected to take the immediate annuity.

8. Section 18 of the said Act, as re-enacted by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 7, is amended by striking out "to the Fund with interest" in the fifteenth and sixteenth lines and inserting in lieu thereof "under section 7, with interest thereon, together with all other moneys paid into the Fund that entitle him or her to credit in the Fund, with interest thereon". s. 18,  
amended

- 9.—(1) Section 20 of the said Act, as amended by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 8 and 1974, chapter 37, section 10, is further amended by adding thereto the following subsection: s. 20,  
amended

(2a) The entitlement to the payment,

(a) of the amount referred to in subclause i or ii of clause *a* of subsection 2; or

(b) of the amount referred to in subclause i or ii of clause *b* of subsection 2,

Commence-  
ment of  
entitlement  
to payment  
under  
subsection 2

commences on the first day of the month next following the month in which the contributor or person died.

- (2) Subsection 6 of the said section 20 is amended by striking out "with interest" in the fifth line and inserting in lieu thereof "under section 7, with interest thereon, together with all other moneys paid into the Fund that entitle him to credit in the Fund, with interest thereon". s. 20 (6),  
amended

10. The said Act is amended by adding thereto the following section: s. 20a,  
enacted

20a.—(1) In this section, "approved long term income protection plan" means a plan established pursuant to *The Public Service Act*.

Long term  
income  
protection  
plan  
R.S.O. 1970,  
c. 386

(2) Where a contributor who is not in receipt of an allowance or annuity under this Act and whose disability was incurred on or after the 1st day of July, 1974 has qualified for a benefit under an approved long term income protection plan, whether or not he is in receipt of such benefit, a contribution shall be made to the Fund on behalf of the contributor, out of moneys appropriated therefor by the Legislature, for each month or part of a month in respect of which the contributor continues to qualify for such a benefit and the contribution shall be 6 per cent of the salary

Contribution  
on behalf of  
disabled  
contributor



authorized to be paid to the contributor in the month immediately prior to the month in which he qualified for the benefit.

Period  
deemed  
contributory  
service

(3) The period for which contributions are required to be made under subsection 1 shall be counted as contributory service.

s. 21,  
re-enacted

**11.** Section 21 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 40, section 4, is repealed and the following substituted therefor:

Payment  
of  
allowances  
and  
annuities

21. An allowance or annuity to which a person becomes entitled under this Act is payable in monthly instalments commencing with the month in which the person becomes entitled thereto, but in the first instance payment thereof shall commence as soon as practicable after the entitlement thereto occurred.

s. 28 (2),  
amended

**12.—(1)** Subsection 2 of section 28 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 37, section 12, is amended by adding thereto the following clause:

(ca) the staff of,

(i) any Government related agency,

(ii) any public institution that is assisted by money appropriated by the Legislature, and

(iii) any corporation the controlling interest of which is owned by the Crown in right of Ontario or whose bonds or debentures are guaranteed by the Crown in right of Ontario,

that is designated by the Lieutenant Governor in Council.

s. 28 (3),  
amended

**(2)** Subsection 3 of the said section 28 is amended by adding thereto the following clause:

(ca) the staff of,

(i) any Government related agency,

(ii) any public institution that is assisted by money appropriated by the Legislature, and

(iii) any corporation the controlling interest of which is owned by the Crown in right of

SECTION 11. Section 21 is revised for the purpose of clarification in line with the provisions in sections 5, 6 and 7 clarifying the commencement of entitlement to allowances, etc., and provides for payment in the first instance after entitlement occurs.

SECTION 12.—Subsections 1, 2 and 5. The provisions authorizing transfers from the Fund to another superannuation fund and *vice versa*, are amended to apply to Government related agencies designated by the Lieutenant Governor in Council.

Subsection 3. The purpose of the amendment is to make it clear that a transfer from a registered pension plan of a religious denomination applies where the clergyman becomes a chaplain in the public service of Ontario.

Subsection 4. For the purpose of clarification only.

SECTION 13. The amendment is for clarification only.

SECTION 14.—Subsection 1. The provision authorizing contributors to establish credit for military service in World War II and the Korean War are extended to active service in the Canadian and British Merchant Marine and in allied forces designated by the Lieutenant Governor in Council.

Subsection 2. The period within which a present contributor may establish credit for military service is extended one year for the purpose of including service in the Merchant Marine and in allied forces as described in subsection 1.

Subsection 3. The amendment is for clarification only.

SECTION 15. Section 34*a* authorizes the Board to direct payment of a refund to the estate of a deceased contributor where the spouse or child who would be entitled to a lump sum payment or to an allowance cannot be found within one year after the death of the contributor and makes provision for payment to the spouse or child when subsequently found.

Section 34*b* authorizes the Board to direct payment to a child under the age of eighteen years, if any, or to the estate of a deceased contributor of moneys payable to his spouse where the Board is satisfied that the spouse is not entitled to receive such moneys by virtue of a separation agreement or other contractual arrangement or refuses to accept the moneys.

Ontario or whose bonds or debentures are guaranteed by the Crown in right of Ontario,

that is designated by the Lieutenant Governor in Council.

(3) Clause *g* of subsection 3 of the said section 28 is amended by adding at the end thereof "in any province of Canada and who becomes a chaplain in the public service of Ontario". s. 28 (3) (g),  
amended

(4) Subsection 6 of the said section 28 is amended by inserting after "may" in the third line "elect to". s. 28 (6),  
amended

(5) Subsection 8 of the said section 28 is amended by striking out "Crown corporation" in the fourth and fifth lines and inserting in lieu thereof "corporation, Government related agency". s. 28 (8),  
amended

**13.** Subsection 5 of section 29 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 37, section 13, is amended by inserting after "may" in the third line "elect to". s. 29 (5),  
amended

**14.—**(1) Subsection 1 of section 29*a* of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 37, section 14, is repealed and the following substituted therefor: s. 29*a* (1),  
re-enacted

(1) Every contributor who was on active service during World War II or the Korean War, Military  
service

(a) in His or Her Majesty's naval, army or air forces or in the Canadian or British Merchant Marine; or

(b) in any naval, army or air force that was allied with His or Her Majesty's forces and that is designated by the Lieutenant Governor in Council,

may, on producing proof of such service, establish credit in the Fund in respect of such service.

(2) Subsection 2 of the said section 29*a* is amended by striking out "one year" in the third line and inserting in lieu thereof "two years". s. 29*a* (2),  
amended

(3) Subsection 4 of the said section 29*a* is amended by inserting after "may" in the third line "elect to". s. 29*a* (4),  
amended

**15.** The said Act is further amended by adding thereto the following sections: ss. 34*a*, 34*b*,  
enacted

Refund  
to estate  
of deceased  
contributor  
where spouse  
or child  
cannot be  
found

34a.—(1) Where a spouse or child of a deceased contributor cannot be found and the Board is satisfied that reasonable inquiries have been made to find the spouse or child and more than one year has passed since the death of the contributor, the Board may, notwithstanding any other provision of this Act, direct that the moneys that would be payable under this Act to the deceased contributor's estate if the contributor had died leaving no widow or widower and no child be paid to the deceased contributor's estate upon such terms and conditions as the Board directs.

Where  
spouse  
or child  
later  
found

(2) Where the spouse or child referred to in subsection 1 is subsequently found and a claim is made for any moneys payable under this Act, the Board may direct that such moneys, less any moneys paid under subsection 1, be paid to the spouse or child, as the case may be.

Payment to  
child or  
estate of  
deceased  
contributor  
where spouse  
not entitled  
to or  
refuses to  
accept  
moneys

34b. Where a contributor dies and any moneys are payable under this Act to his spouse and the Board is satisfied that the spouse is not entitled to receive such moneys by virtue of a separation agreement or other contractual arrangement entered into with the contributor before he died or that the spouse has refused to accept such moneys, the Board may direct that,

- (a) where there is a child under the age of eighteen years, the moneys be paid in accordance with this Act as if there were no spouse; and
- (b) if there is no child under the age of eighteen years, the moneys that would be payable under this Act to the deceased contributor's estate if the contributor had died leaving no widow or widower and no child be paid to the deceased contributor's estate.

s. 39.  
enacted

**16.** The said Act is further amended by adding thereto the following section:

Augmenta-  
tion of  
allowances  
and  
annuities

39.—(1) The Lieutenant Governor in Council, for the purpose of augmenting from time to time allowances and annuities being paid under this Act, may make regulations providing for the payment of supplementary benefits and minimum amounts to persons receiving allowances or annuities under this Act and prescribing the minimum amounts and the amounts of such benefits, the times at which they shall be paid and the classes of persons entitled thereto.

Moneys  
required to  
augment  
allowances,  
etc.

(2) The moneys required for the purposes of subsection 1 shall be credited to the Fund out of the Consolidated Revenue Fund.



SECTION 16. The Lieutenant Governor in Council is authorized to pass regulations to augment allowances and annuities being paid under the Act.

SECTION 17. The provision increasing certain allowances in 1961 to the minimum amount provided at that time is repealed.

- 17.** Section 19 of *The Public Service Superannuation Amendment Act, 1960-61*, being chapter 84, is repealed. <sup>Repeal</sup>
- 18.**—(1) This Act, except subsection 3 of section 12 and sections 10 and 14, comes into force on the day it receives Royal Assent. <sup>Commence-  
ment</sup>
- (2) Subsection 3 of section 12 and section 14 shall be deemed to have come into force on the 18th day of June, 1974. <sup>Idem</sup>
- (3) Section 10 shall be deemed to have come into force on the 1st day of January, 1975. <sup>Idem</sup>
- 19.** This Act may be cited as *The Public Service Superannuation Amendment Act, 1975*. <sup>Short title</sup>

An Act to amend  
The Public Service Superannuation  
Act

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*1st Reading*

June 10th, 1975

*2nd Reading*

July 3rd, 1975

*3rd Reading*

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THE HON. J. W. SNOW  
Minister of Government Services

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*(Reprinted as amended by the  
Committee of the Whole House)*

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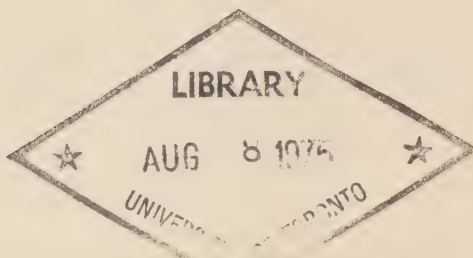
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Ontario. Legislative Assembly

An Act to amend  
The Public Service Superannuation Act



THE HON. J. W. SNOW  
Minister of Government Services

TORONTO

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## An Act to amend The Public Service Superannuation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clause *d* of subsection 1 of section 1 of *The Public Service Superannuation Act*, being chapter 387 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 1 and 1974, chapter 37, section 1, is further amended by adding at the end thereof “and the Canada Pension Plan”. s. 1 (1) (*d*),  
amended
- (2) Subclause ii of clause *h* of subsection 1 of the said section 1 is amended by striking out “number of years” in the second line and inserting in lieu thereof “period of not less than twelve consecutive months”. s. 1 (1), (*h*),  
(ii), amended
- (3) Subsection 1 of the said section 1, as amended by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 1, 1972, chapter 1, section 76 and 1974, chapter 37, section 1, is further amended by adding thereto the following clause: s. 1 (1),  
amended
  - (i) “widower” includes a man who,
  - (i) establishes to the satisfaction of the Board that he had, for a period of not less than seven years immediately prior to the death of a contributor with whom he had been residing and with whom by law he was prohibited from marrying by reason of a previous marriage either of the contributor or of himself to another person, been maintained and publicly represented by the contributor as her husband, or
  - (ii) establishes to the satisfaction of the Board that he had, for a period of not less than twelve consecutive months immediately prior

to the death of a contributor with whom he had been residing, been maintained and publicly represented by the contributor as her husband, and that at the time of the death of the contributor, neither he nor the contributor was married to any other person.

s. 1,  
amended

- (4) The said section 1 is amended by adding thereto the following subsection:

When  
common-law  
husband  
deemed  
married to  
contributor

(3) For the purposes of this Act, a man who has established to the satisfaction of the Board that he is a widower under subclause i or ii of clause *i* of subsection 1 shall, if the Board so directs, be deemed to have become married to the contributor at such time as he commenced being represented by her as her husband, and a man who could establish that he is a widower under subclause i or ii of clause *i* of subsection 1 but for his marriage to a contributor after such time as he commenced being represented by her as her husband shall, if the Board so directs, be deemed to have become married to the contributor at the time when, in fact, he commenced being so represented.

s. 6,  
amended

2. Section 6 of the said Act is amended by striking out "3 per cent per annum compounded half-yearly" in the second and third lines and inserting in lieu thereof "5 per cent per annum compounded annually".

s. 8 (1) (*d*),  
amended

- 3.—(1) Clause *d* of subsection 1 of section 8 of the said Act is amended by adding at the end thereof "at such rate as the Board determines".

s. 8 (6),  
amended

- (2) Subsection 6 of the said section 8, as enacted by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 2 and amended by 1974, chapter 37, section 4, is further amended by inserting after "may" in the fifth line "elect to".

s. 9 (1),  
re-enacted

- 4.—(1) Subsection 1 of section 9 of the said Act is repealed and the following substituted therefor:

Leave of  
absence  
contribu-  
tions

(1) A contributor who is granted leave of absence of more than one month without salary because of illness or pregnancy may make contributions to the Fund for the period of leave, in which case the contributor shall contribute an amount equal to the amount the contributor would have contributed to the Fund if leave had not been granted, and such contribution shall be made within six months of the termination of leave, or the contributor may elect not to make such contribution, in which case the contributor is not entitled to credit for the period of the leave.

- (2) The said section 9 is amended by adding thereto the following subsection: s. 9,  
amended

(4) Any contributor who is entitled under subsection 1, 2 or 3 to credit in the Fund but who has failed to establish credit in respect of the contributor's period of leave under subsection 1, 2 or 3 may elect to establish credit at any time before ceasing to be a contributor, and the relevant provisions of this section apply *mutatis mutandis*, except that the rate of salary on which the contribution would be based shall be deemed to be equal to the rate of salary authorized to be paid to the contributor at the time the election was made and interest shall not be added. Open  
option

- 5.—(1) Subsection 1 of section 11 of the said Act is amended by adding at the commencement thereof "Subject to subsection 4". s. 11 (1),  
amended

- (2) Subsection 2 of the said section 11 is amended by adding at the commencement thereof "Subject to subsection 4". s. 11 (2),  
amended

- (3) Subsection 3 of the said section 11, as enacted by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 3 and amended by 1974, chapter 37, section 6, is further amended by adding at the commencement thereof "Subject to subsection 4". s. 11 (3),  
amended

- (4) The said section 11 is further amended by adding thereto the following subsection: s. 11,  
amended

(4) The entitlement to a superannuation allowance, subject to section 14, commences on the first day of the month next following the month in which the contributor retired. Commence-  
ment of  
entitlement  
to super-  
annuation  
allowance

- 6.—(1) Subsection 1 of section 12 of the said Act is amended by adding at the commencement thereof "Subject to subsection 1a". s. 12 (1),  
amended

- (2) The said section 12, as amended by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 4, is further amended by adding thereto the following subsection: s. 12,  
amended

(1a) The entitlement to a disability allowance, subject to section 14, commences on the first day of the month next following the month in which the contributor terminated his service. Commence-  
ment of  
entitlement  
to disability  
allowance

s. 12 (4),  
re-enacted

- (3) Subsection 4 of the said section 12, as re-enacted by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 4, is repealed and the following substituted therefor:

Where  
offer  
not  
accepted

(4) Where a person does not accept the offer, he is entitled to a deferred annuity or to an immediate annuity in accordance with the provisions of section 13, except that if he is entitled to an immediate annuity under section 13, the date on which he declined the offer of employment shall be deemed to be the date on which he ceased to be employed under that section.

s. 13,  
amended

7. Section 13 of the said Act, as amended by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 5, is further amended by adding thereto the following subsections:

Commence-  
ment of  
entitlement  
under  
subsection 1

(1a) The entitlement to a deferred annuity under clause *a* or *b* of subsection 1, subject to section 14, commences on the first day of the month next following the month in which the contributor attained the age of sixty-five years or sixty years, respectively.

. . . . .

Commence-  
ment of  
entitlement  
under  
subsection 2

(2a) The entitlement to a deferred annuity under clause *a* or *b* of subsection 2, subject to section 14, commences on the first day of the month next following the month in which the contributor attained the age of sixty years or sixty-five years, respectively.

. . . . .

Commence-  
ment of  
entitlement  
under  
subsection 3

(3a) The entitlement to an immediate annuity under clause *a* or *b* of subsection 3, subject to section 14, commences on the first day of the month next following the month in which the contributor ceased to be employed.

. . . . .

Commence-  
ment of  
entitlement  
under  
subsection 4

(4a) The entitlement to the immediate annuity under subsection 4, subject to section 14, commences on the first day of the month next following the month in which the contributor elected to take the immediate annuity.

. . . . .

Commence-  
ment of  
entitlement  
under  
subsection 5

(5a) The entitlement to an immediate annuity under clause *a* or *b* of subsection 5, subject to section 14, commences on the first day of the month next following the



month in which the contributor or person elected to take the immediate annuity.

8. Section 18 of the said Act, as re-enacted by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 7, is amended by striking out "to the Fund with interest" in the fifteenth and sixteenth lines and inserting in lieu thereof "under section 7, with interest thereon, together with all other moneys paid into the Fund that entitle him or her to credit in the Fund, with interest thereon". s. 18,  
amended

- 9.—(1) Section 20 of the said Act, as amended by the Statutes of Ontario, 1971 (2nd Session), chapter 10, section 8 and 1974, chapter 37, section 10, is further amended by adding thereto the following subsection: s. 20,  
amended

(2a) The entitlement to the payment,

(a) of the amount referred to in subclause i or ii of clause *a* of subsection 2; or

(b) of the amount referred to in subclause i or ii of clause *b* of subsection 2,

Commence-  
ment of  
entitlement  
to payment  
under  
subsection 2

commences on the first day of the month next following the month in which the contributor or person died.

- (2) Subsection 6 of the said section 20 is amended by striking out "with interest" in the fifth line and inserting in lieu thereof "under section 7, with interest thereon, together with all other moneys paid into the Fund that entitle him to credit in the Fund, with interest thereon". s. 20 (6),  
amended

10. The said Act is amended by adding thereto the following section: s. 20a,  
enacted

20a.—(1) In this section, "approved long term income protection plan" means a plan established pursuant to *The Public Service Act*.

Long term  
income  
protection  
plan  
R.S.O. 1970,  
c. 386

(2) Where a contributor who is not in receipt of an allowance or annuity under this Act and whose disability was incurred on or after the 1st day of July, 1974 has qualified for a benefit under an approved long term income protection plan, whether or not he is in receipt of such benefit, a contribution shall be made to the Fund on behalf of the contributor, out of moneys appropriated therefor by the Legislature, for each month or part of a month in respect of which the contributor continues to qualify for such a benefit and the contribution shall be 6 per cent of the salary

Contribution  
on behalf of  
disabled  
contributor

authorized to be paid to the contributor in the month immediately prior to the month in which he qualified for the benefit.

Period  
deemed  
contributory  
service

(3) The period for which contributions are required to be made under subsection 1 shall be counted as contributory service.

s. 21,  
re-enacted

**11.** Section 21 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 40, section 4, is repealed and the following substituted therefor:

Payment  
of  
allowances  
and  
annuities

21. An allowance or annuity to which a person becomes entitled under this Act is payable in monthly instalments commencing with the month in which the person becomes entitled thereto, but in the first instance payment thereof shall commence as soon as practicable after the entitlement thereto occurred.

s. 28 (2),  
amended

**12.—(1)** Subsection 2 of section 28 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 37, section 12, is amended by adding thereto the following clause:

(ca) the staff of,

- (i) any Government related agency,
- (ii) any public institution that is assisted by money appropriated by the Legislature, and
- (iii) any corporation the controlling interest of which is owned by the Crown in right of Ontario or whose bonds or debentures are guaranteed by the Crown in right of Ontario,

that is designated by the Lieutenant Governor in Council.

s. 28 (3),  
amended

**(2)** Subsection 3 of the said section 28 is amended by adding thereto the following clause:

(ca) the staff of,

- (i) any Government related agency,
- (ii) any public institution that is assisted by money appropriated by the Legislature, and
- (iii) any corporation the controlling interest of which is owned by the Crown in right of

Ontario or whose bonds or debentures are guaranteed by the Crown in right of Ontario,

that is designated by the Lieutenant Governor in Council.

(3) Clause *g* of subsection 3 of the said section 28 is amended s. 28 (3) (g),  
amended by adding at the end thereof "in any province of Canada and who becomes a chaplain in the public service of Ontario".

(4) Subsection 6 of the said section 28 is amended by inserting s. 28 (6),  
amended after "may" in the third line "elect to".

(5) Subsection 8 of the said section 28 is amended by s. 28 (8),  
amended striking out "Crown corporation" in the fourth and fifth lines and inserting in lieu thereof "corporation, Government related agency".

**13.** Subsection 5 of section 29 of the said Act, as re-enacted by s. 29 (5),  
amended the Statutes of Ontario, 1974, chapter 37, section 13, is amended by inserting after "may" in the third line "elect to".

**14.—**(1) Subsection 1 of section 29*a* of the said Act, as enacted by s. 29*a* (1),  
re-enacted the Statutes of Ontario, 1974, chapter 37, section 14, is repealed and the following substituted therefor:

(1) Every contributor who was on active service during Military  
service World War II or the Korean War,

(a) in His or Her Majesty's naval, army or air forces or in the Canadian or British Merchant Marine; or

(b) in any naval, army or air force that was allied with His or Her Majesty's forces and that is designated by the Lieutenant Governor in Council,

may, on producing proof of such service, establish credit in the Fund in respect of such service.

(2) Subsection 2 of the said section 29*a* is amended by s. 29*a* (2),  
amended striking out "one year" in the third line and inserting in lieu thereof "two years".

(3) Subsection 4 of the said section 29*a* is amended by inserting s. 29*a* (4),  
amended after "may" in the third line "elect to". ●

**15.** The said Act is further amended by adding thereto the ss. 34*a*, 34*b*,  
enacted following sections:

Refund  
to estate  
of deceased  
contributor  
where spouse  
or child  
cannot be  
found

34a.—(1) Where a spouse or child of a deceased contributor cannot be found and the Board is satisfied that reasonable inquiries have been made to find the spouse or child and more than one year has passed since the death of the contributor, the Board may, notwithstanding any other provision of this Act, direct that the moneys that would be payable under this Act to the deceased contributor's estate if the contributor had died leaving no widow or widower and no child be paid to the deceased contributor's estate upon such terms and conditions as the Board directs.

Where  
spouse  
or child  
later  
found

(2) Where the spouse or child referred to in subsection 1 is subsequently found and a claim is made for any moneys payable under this Act, the Board may direct that such moneys, less any moneys paid under subsection 1, be paid to the spouse or child, as the case may be.

Payment to  
child or  
estate of  
deceased  
contributor  
where spouse  
not entitled  
to or  
refuses to  
accept  
moneys

34b. Where a contributor dies and any moneys are payable under this Act to his spouse and the Board is satisfied that the spouse is not entitled to receive such moneys by virtue of a separation agreement or other contractual arrangement entered into with the contributor before he died or that the spouse has refused to accept such moneys, the Board may direct that,

- (a) where there is a child under the age of eighteen years, the moneys be paid in accordance with this Act as if there were no spouse; and
- (b) if there is no child under the age of eighteen years, the moneys that would be payable under this Act to the deceased contributor's estate if the contributor had died leaving no widow or widower and no child be paid to the deceased contributor's estate.

s. 39,  
enacted

**16.** The said Act is further amended by adding thereto the following section:

Augmenta-  
tion of  
allowances  
and  
annuities

39.—(1) The Lieutenant Governor in Council, for the purpose of augmenting from time to time allowances and annuities being paid under this Act, may make regulations providing for the payment of supplementary benefits and minimum amounts to persons receiving allowances or annuities under this Act and prescribing the minimum amounts and the amounts of such benefits, the times at which they shall be paid and the classes of persons entitled thereto.

Moneys  
required to  
augment  
allowances,  
etc.

(2) The moneys required for the purposes of subsection 1 shall be credited to the Fund out of the Consolidated Revenue Fund.

- 17.** Section 19 of *The Public Service Superannuation Amendment Act, 1960-61*, being chapter 84, is repealed. <sup>Repeal</sup>
- 18.**—(1) This Act, except subsection 3 of section 12 and sections 10 and 14, comes into force on the day it receives Royal Assent. <sup>Commence-  
ment</sup>
- (2) Subsection 3 of section 12 and section 14 shall be deemed <sup>Idem</sup> to have come into force on the 18th day of June, 1974.
- (3) Section 10 shall be deemed to have come into force on the <sup>Idem</sup> 1st day of January, 1975.
- 19.** This Act may be cited as *The Public Service Superannuation Amendment Act, 1975*. <sup>Short title</sup>



# BILL 103

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An Act to amend  
The Public Service Superannuation  
Act

---

*1st Reading*

June 10th, 1975

*2nd Reading*

July 3rd, 1975

*3rd Reading*

July 10th, 1975

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THE HON. J. W. SNOW  
Minister of Government Services

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CA20N

XB

-B 56

BILL 104

Publications  
Government Bill

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

Ontario. Legislative Assembly

**An Act to amend  
The Pregnant Mare Urine Farms Act**

THE HON. W. A. STEWART  
Minister of Agriculture and Food



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTES

SECTION 1.—Subsection 1. Complementary to subsection 2.

Subsection 2. The subsection being repealed provides that no member of the P.M.U. Licence Review Board shall hold office for more than five consecutive years.

BILL 104

1975

**An Act to amend  
The Pregnant Mare Urine Farms Act**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 2 of *The Pregnant Mare Urine Farms Act*, being chapter 359 of the Revised Statutes of Ontario, 1970, is amended by striking out “subject to subsection 2” in the fifth and sixth lines. s. 2 (1),  
amended
- (2) Subsection 2 of the said section 2 is repealed. s. 2 (2),  
repealed
2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
3. This Act may be cited as *The Pregnant Mare Urine Farms Amendment Act, 1975*. Short title

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## BILL 104

An Act to amend  
The Pregnant Mare Urine  
Farms Act

---

*1st Reading*

June 10th, 1975

*2nd Reading*

*3rd Reading*

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THE HON. W. A. STEWART  
Minister of Agriculture and Food

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*(Government Bill)*

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CA20N

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-B 56

BILL 104

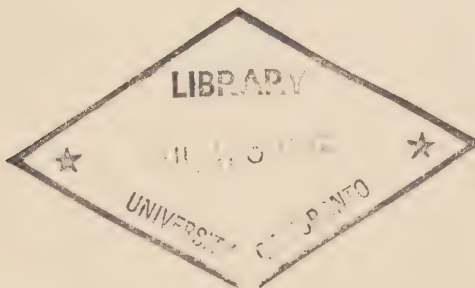
Government  
Publications

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

Ontario. Legislative Assembly

**An Act to amend  
The Pregnant Mare Urine Farms Act**

THE HON. W. A. STEWART  
Minister of Agriculture and Food



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



BILL 104

1975

**An Act to amend  
The Pregnant Mare Urine Farms Act**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 2 of *The Pregnant Mare Urine Farms Act*, being chapter 359 of the Revised Statutes of Ontario, 1970, is amended by striking out “subject to subsection 2” in the fifth and sixth lines. s. 2 (1),  
amended
- (2) Subsection 2 of the said section 2 is repealed. s. 2 (2),  
repealed
2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
3. This Act may be cited as *The Pregnant Mare Urine Farms Amendment Act, 1975*. Short title

---

# BILL 104

---

An Act to amend  
The Pregnant Mare Urine  
Farms Act

---

*1st Reading*

June 10th, 1975

*2nd Reading*

July 4th, 1975

*3rd Reading*

July 4th, 1975

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THE HON. W. A. STEWART  
Minister of Agriculture and Food

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CA20N  
XB  
-B 56

**BILL 105**

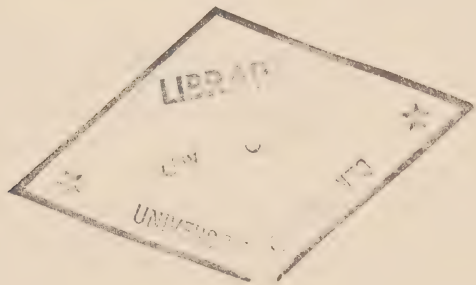
Government  
Publications  
**Government Bill**

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

Ontario. Legislative Assembly

**An Act to amend  
The Ontario Transportation Development  
Corporation Act, 1973**

THE HON. J. R. RHODES  
Minister of Transportation and Communications



#### EXPLANATORY NOTE

Section 14*a*(1) authorizes The Ontario Transportation Development Corporation to sell or transfer its assets and liabilities to another corporation having similar objects and of which the beneficial ownership is restricted to Her Majesty in right of Ontario, any other province of Canada or Canada. The subsection also authorizes The Ontario Transportation Development Corporation to receive, in return for its assets, securities of the other corporation and to have the other corporation assume its liabilities.

Section 14*a*(2) authorizes The Ontario Transportation Development Corporation to transfer any equity shares which it might receive for the sale of assets under subsection 1 to the Minister to hold on behalf of Her Majesty in right of Ontario.



BILL 105

1975

**An Act to amend  
The Ontario Transportation Development  
Corporation Act, 1973**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Ontario Transportation Development Corporation Act, 1973*, <sup>s. 14a, enacted</sup> being chapter 66, is amended by adding thereto the following section:

14a.—(1) The Corporation may, where authorized by a special resolution, <sup>Corporation may dispose of property</sup>

(a) sell, lease or otherwise dispose of all or substantially all of its property and liabilities to another body corporate,

(i) which has objects similar to those of the Corporation, and

(ii) of which, the beneficial ownership of equity shares is restricted to Her Majesty in right of Ontario, of any of the other provinces of Canada, or of Canada; and

(b) receive, in consideration of any property so disposed, securities of the body corporate together with the assumption by the body corporate of the liabilities of the Corporation.

(2) The Corporation may,

(a) transfer to the Minister to hold on behalf of Her Majesty in right of Ontario any equity shares that the Corporation receives under subsection 1; or

Corporation may transfer shares

- (b) cause to be issued to the Minister to hold on behalf of Her Majesty in right of Ontario any equity shares that the Corporation is entitled to receive under subsection 1.

Commence-  
ment

- 2.** This Act comes into force on the day it receives Royal Assent.

Short title

- 3.** This Act may be cited as *The Ontario Transportation Development Corporation Amendment Act, 1975*.







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## BILL 105

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An Act to amend  
The Ontario Transportation  
Development Corporation Act, 1973

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*1st Reading*

June 12th, 1975

*2nd Reading*

*3rd Reading*

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THE HON. J. R. RHODES  
Minister of Transportation  
and Communications

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*(Government Bill)*

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BILL 105

Government  
Publication

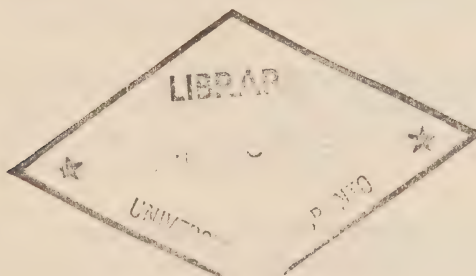
-B 56

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

Ontario. Legislative Assembly

**An Act to amend  
The Ontario Transportation Development  
Corporation Act, 1973**

THE HON. J. R. RHODES  
Minister of Transportation and Communications



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



BILL 105

1975

**An Act to amend  
The Ontario Transportation Development  
Corporation Act, 1973**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Ontario Transportation Development Corporation Act, 1973*, <sup>s. 14a. enacted</sup> being chapter 66, is amended by adding thereto the following section:

14a.—(1) The Corporation may, where authorized by a special resolution, <sup>a Corporation may dispose of property</sup>

(a) sell, lease or otherwise dispose of all or substantially all of its property and liabilities to another body corporate,

(i) which has objects similar to those of the Corporation, and

(ii) of which, the beneficial ownership of equity shares is restricted to Her Majesty in right of Ontario, of any of the other provinces of Canada, or of Canada; and

(b) receive, in consideration of any property so disposed, securities of the body corporate together with the assumption by the body corporate of the liabilities of the Corporation.

(2) The Corporation may,

(a) transfer to the Minister to hold on behalf of Her Majesty in right of Ontario any equity shares that the Corporation receives under subsection 1; or

Corporation may transfer shares

- (b) cause to be issued to the Minister to hold on behalf of Her Majesty in right of Ontario any equity shares that the Corporation is entitled to receive under subsection 1.

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

Short title

**3.** This Act may be cited as *The Ontario Transportation Development Corporation Amendment Act, 1975*.









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An Act to amend  
The Ontario Transportation  
Development Corporation Act, 1973

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*1st Reading*

June 12th, 1975

*2nd Reading*

July 7th, 1975

*3rd Reading*

July 7th, 1975

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THE HON. J. R. RHODES  
Minister of Transportation  
and Communications

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-B56

BILL 106

Government Bill

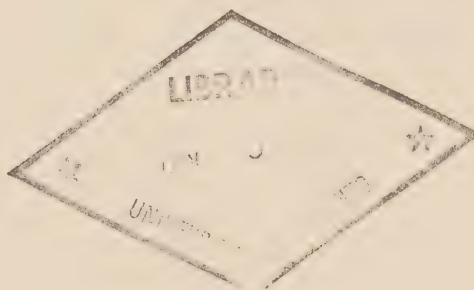
Government  
Publications

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

*Ontario, Legislative Assembly*

**An Act to amend  
The Workmen's Compensation Act**

THE HON. J. MACBETH  
Minister of Labour



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTES

SECTION 1. The definition of "employee" is expanded to include a person the Board deems on his request to be an employee, a member of a municipal volunteer ambulance brigade, an auxiliary member of a police force and a person who assists in any search and rescue operation at the request of and under the direction of a member of the Ontario Provincial Police Force.

## An Act to amend The Workmen's Compensation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 1 of *The Workmen's Compensation Act*, being chapter 505 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1973, chapter 173, sections 1 and 2, is further amended by adding thereto the following clause:
 

s. 1 (1),  
amended

(ha) “employee” includes a person who has entered into or is employed under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour or otherwise, and includes a learner and a member of a municipal volunteer fire brigade and a member of a municipal volunteer ambulance brigade, and an auxiliary member of a police force, and includes a person deemed to be an employee under section 11, and includes a person who is called out under *The Fires Extinguishment Act* or who is summoned to assist in controlling and extinguishing a fire under *The Forest Fires Prevention Act* or who assists in any search and rescue operation at the request of and under the direction of a member of the Ontario Provincial Police Force, but where used in Part I does not include an outworker, or an executive officer of a corporation or a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business.

R.S.O. 1970,  
cc. 173, 179
- (2) Clause *x* of subsection 1 of the said section 1, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, is repealed.
 

s. 1 (1) (x),  
repealed
- (3) Subsection 2 of the said section 1 is amended by adding “or” at the end of clause *b* and by adding thereto the following clause:
 

s. 1 (2),  
amended

- (c) who assists in any search and rescue operation at the request of and under the direction of a member of the Ontario Provincial Police Force, shall be deemed to be an employee of the Crown in right of Ontario while so engaged,

. . . . .

s. 11,  
re-enacted

2. Section 11 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 173, section 3, is repealed and the following substituted therefor:

Person  
may be  
deemed  
to be  
employee

11.—(1) On application, an employer, an independent operator, a person the Board deems to be an employer, or an executive officer of a corporation may elect to be deemed an employee for the purposes of this Act, provided that,

- (a) he is carried on the payroll of the business at his actual earnings for the year, or files with the Board a statement of his estimated earnings for the year which is acceptable to the Board; and

- (b) he consents to the application.

Idem

(2) A person shall not be deemed under subsection 1 to be an employee unless the rate of his estimated or actual earnings yields the minimum amount of compensation provided by section 43.

Entitlement  
to  
compensation

(3) No person deemed an employee under subsection 1 shall be entitled to more compensation than the maximum provided by sections 39 and 44.

s. 36 (1) (a),  
re-enacted

- 3.—(1) Clause *a* of subsection 1 of section 36 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 46, section 1 and amended by 1973, chapter 173, section 1, is repealed and the following substituted therefor:

- (a) the necessary expenses of the burial or cremation of the employee, not exceeding \$600.

s. 36 (3),  
re-enacted

- (2) Subsection 3 of the said section 36, as re-enacted by the Statutes of Ontario, 1973, chapter 173, section 5, is repealed and the following substituted therefor:

Idem

(3) A dependent common-law wife or husband receiving compensation under this section may not be paid compensation for acting or claiming to act as a person described in subsection 6.



SECTION 2. An application for personal coverage and independent operator coverage are combined. The section provides that the consent of the person covered must be obtained.

SECTION 3. Increases a burial allowance to \$600 from \$500.

SECTION 4. Self-explanatory.

SECTION 5. Compensation payments for temporary disability are adjusted.

SECTION 6.—Subsection 1. This subsection allows the Board to supplement a permanent disability award where the impairment of earning capacity is greater than usual for the injury.

- (3) Subsection 7 of the said section 36, as re-enacted by the <sup>s. 36 (7), re-enacted</sup> Statutes of Ontario, 1973, chapter 173, section 5, is repealed and the following substituted therefor:

(7) In addition to any other compensation provided for, <sup>Payment of</sup> the widow or widower, or where the employee leaves no widow <sup>lump sum</sup> or widower, the person described in subsection 6, is entitled to a lump sum of \$600.

4. Subsections 1 and 3 of section 3 apply only in respect of <sup>Application</sup> accidents occurring on or after the 1st day of July, 1975.

5. The said Act is amended by adding thereto the following <sup>s. 41a, enacted</sup> section:

41a.—(1) Where the Board considers it more equitable, <sup>Adjustment of rate of compensation</sup> it may adjust the rate of compensation being paid for temporary disability by adding an additional 2 per cent of the initial compensation rate for each year from the date of the accident up to and including the year 1971, and 4 per cent of the initial compensation rate for each of the years 1972 and 1973, and 10 per cent of the initial compensation rate for the year 1974, provided that the compensation rate so adjusted shall not exceed the maximum established by sections 39 and 44.

(2) This section applies to payments accruing on and after <sup>Application</sup> the 1st day of July, 1975, but nothing herein entitles any person to claim additional compensation for any period prior to the 1st day of July, 1975.

- 6.—(1) Subsections 1 and 5 of section 42 of the said Act, as <sup>s. 42 (1, 5), re-enacted</sup> amended by the Statutes of Ontario, 1973, chapter 173, section 1, are repealed and the following substituted therefor:

(1) Where permanent disability results from the injury, <sup>Permanent disability</sup> the impairment of earning capacity of the employee shall be estimated from the nature and degree of the injury, and the compensation shall be a weekly or other periodical payment during the lifetime of the employee, or such other period as the Board may fix, of a sum proportionate to such impairment not exceeding in any case the like proportion of 75 per cent of his average weekly earnings during the twelve months immediately preceding the accident or such lesser period as he has been employed.

Amount  
awarded  
may be  
supplemented

(5) Notwithstanding subsection 1, where the impairment of earning capacity of the employee is significantly greater than is usual for the nature and degree of his injury, the Board may supplement the amount awarded for permanent partial disability for such period as the Board may fix, provided that the total sum of such supplement and award shall not exceed in any case the like proportion of 75 per cent of his average weekly earnings during the twelve months immediately preceding the accident or such lesser period as he has been employed, and provided that he co-operates in and is available for a medical or vocational rehabilitation program which would in the opinion of the Board aid in getting him back to work, or accepts or is available for employment which is available and which in the opinion of the Board is suitable for his capabilities.

s. 42,  
amended

(2) The said section 42, as amended by the Statutes of Ontario, 1973, chapter 173, section 1 and 1974, chapter 70, section 3, is further amended by adding thereto the following subsections:

Application

(8a) Where the injury occurred prior to the 31st day of December, 1973 and an award for permanent disability is made after the 31st day of December, 1973, and the award is based on earnings prior to the 31st day of December, 1973, subsection 8 shall apply as if the award were made on the 31st day of December, 1973.

Increase  
in  
payments

(8b) The amounts payable under this section shall be increased by adding thereto 10 per cent thereof, effective on the 1st day of July, 1975.

s. 42 (9),  
re-enacted

(3) Subsection 9 of the said section 42, as enacted by the Statutes of Ontario, 1974, chapter 70, section 3, is repealed and the following substituted therefor:

Non-  
application  
of  
subss. 4, 6,  
8-8b, s. 43 (b)

(9) Subsections 8, 8a and 8b do not apply to a commutation lump sum award, an award under subsection 4 or 6 of this section or an award under clause b of section 43 which the Board has made under this Part.

Application  
of subs. 8b

(10) Subsection 8b applies to monthly payments accruing on or after the 1st day of July, 1975, where the injury occurred on or before the 31st day of December, 1974.

Application

7. Section 6 applies to monthly payments accruing on or after the 1st day of July, 1975, whether the accident occurred before or after that date and whether the award of compensation was made before or after that date, but nothing therein entitles any person to claim additional compensation for any period prior to the 1st day of July, 1975.

Subsection 2. This subsection provides an additional 10 per cent for a permanent disability pension as of July 1st, 1975. The subsection also extends subsection 8 of section 42 of the Act to persons injured before the 31st day of December, 1973, who are awarded a pension after that date.

SECTION 7. Self-explanatory.

SECTION 8.—Subsection 1. This subsection increases the minimum amount of compensation for temporary total disability to the employee's average earnings or \$90 a week, whichever is less. The present minimum is \$55 or his average earnings, whichever is less.

Subsection 2. This subsection increases the minimum award for permanent total disability to \$400 a month from \$260 a month.

SECTIONS 9 AND 11. Self-explanatory.

SECTION 10. The earnings ceiling is increased to \$15,000 from \$12,000.

SECTION 12. This section extends the allowance for the repair and replacement of clothing to cover damage caused by a back brace or permanent leg brace.



- 8.—(1) Clause *a* of section 43 of the said Act, as re-enacted by <sup>s. 43 (a),  
re-enacted</sup> the Statutes of Ontario, 1973, chapter 46, section 2, is repealed and the following substituted therefor:

(a) for temporary total disability,

(i) where his average earnings are not less than \$90 a week, \$90 a week, and

(ii) where his average earnings are less than \$90 a week, the amount of such earnings,

and for temporary partial disability, a proportionate amount in accordance with the impairment of earning capacity; and

. . . . .

- (2) Subclause *i* of clause *b* of the said section 43, as re-enacted <sup>s. 43 (b) (i),  
re-enacted</sup> by the Statutes of Ontario, 1974, chapter 70, section 4, is repealed and the following substituted therefor:

(i) for permanent total disability, \$400 a month, and

. . . . .

9. Section 8 applies to payments accruing on and after the <sup>Application</sup> 1st day of July, 1975, but nothing therein entitles any person to claim additional compensation for any period prior to the 1st day of July, 1975.

10. Subsection 1 of section 44 of the said Act, as amended by the <sup>s. 44 (1),  
amended</sup> Statutes of Ontario, 1973, chapter 173, section 1 and 1974, chapter 70, section 5, is further amended by striking out "\$12,000" in the amendment of 1974 and inserting in lieu thereof "\$15,000".

11. Section 10 applies to payments accruing on and after the <sup>Application</sup> 1st day of July, 1975, but does not apply to a commutation lump sum award, an award under subsection 4 or 6 of section 42 of the Act, or an award under clause *b* of section 43 of the Act, and nothing in section 10 entitles any person to claim additional compensation for any period prior to the 1st day of July, 1975.

12. Clause *b* of subsection 3 of section 51 of the said Act, as <sup>s. 51 (3) (b),  
re-enacted</sup> re-enacted by the Statutes of Ontario, 1974, chapter 70, section 6, is repealed and the following substituted therefor:.

- (b) on application, an allowance not exceeding \$168 per annum for the replacement or repair of clothing worn or damaged by reason of the wearing of a lower limb prosthesis or a back brace for a permanent back disability or a permanent leg brace, and not exceeding \$84 per annum in respect of an upper limb prosthesis, where such lower or upper limb prosthesis, back brace or permanent leg brace are supplied by the Board,

. . . . .

s. 91,  
repealed

- 13.** Section 91 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, is repealed.

s. 117 (3),  
re-enacted

- 14.** Subsection 3 of section 117 of the said Act is repealed and the following substituted therefor:

Default  
in  
reporting  
accident  
or claim

- (3) Every employer who makes default in reporting or furnishing particulars of any accident or claim shall, in addition to any other penalty or liability, pay to the Board the amount set out in the regulations and the Board, subject to the approval of the Lieutenant Governor in Council, may make regulations for such purpose.

s. 118,  
amended

- 15.** Section 118 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 46, section 6 and 1973, chapter 173, sections 1 and 9, is further amended by adding thereto the following subsection:

Remuner-  
ation  
and  
expenses  
of medical  
officers  
R.S.O. 1970,  
c. 274

- (9) The Board may pay the remuneration and expenses of such medical officers as may be required to carry out the provisions of *The Mining Act* for the examination of employees or applicants for employment, out of the rates imposed under this Act for payment of silicosis claims.

Increase  
in  
monthly  
payments

- 16.—(1)** The amounts payable under clauses *c*, *d*, *e* and *f* of subsection 1 and subsections 4 and 10 of section 36 of the said Act shall be increased by adding thereto 10 per cent thereof, effective on the 1st day of July, 1975.

Idem

- (2) Subsection 1 applies to monthly payments accruing on or after the 1st day of July, 1975, whether the accident occurred before or after that date and whether the award of compensation was made before or after that date, but does not apply to a lump sum award or to payments due prior to the 1st day of July, 1975.

Commence-  
ment

- 17.** This Act comes into force on the 1st day of July, 1975.

Short title

- 18.** This Act may be cited as *The Workmen's Compensation Amendment Act, 1975*.

SECTION 13. Self-explanatory.

SECTION 14. This section provides for a late filing fee to be set out by the regulations where the employer fails to report an accident to the Board.

SECTION 15. This section allows the Board to pay the remuneration and expenses of medical officers charged with carrying out the provisions of *The Mining Act*.

SECTION 16. This section increases dependants' benefits by 10 per cent effective July 1st, 1975.





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An Act to amend  
The Workmen's Compensation Act

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*1st Reading*

June 12th, 1975

*2nd Reading*

*3rd Reading*

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THE HON. J. MACBETH  
Minister of Labour

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*(Government Bill)*

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CA20N

XB

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BILL 106

Government Bill

Government  
Publications

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

**An Act to amend  
The Workmen's Compensation Act**

*Ontario. Legislative Assembly*

THE HON. J. MACBETH  
Minister of Labour



*(Reprinted as amended by the Committee of the Whole House)*

#### EXPLANATORY NOTES

SECTION 1. The definition of "employee" is expanded to include a person the Board deems on his request to be an employee, a member of a municipal volunteer ambulance brigade, an auxiliary member of a police force and a person who assists in any search and rescue operation at the request of and under the direction of a member of the Ontario Provincial Police Force.

## An Act to amend The Workmen's Compensation Act

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 1 of *The Workmen's Compensation Act*, being chapter 505 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1973, chapter 173, sections 1 and 2, is further amended by adding thereto the following clause:

(*ha*) “employee” includes a person who has entered into or is employed under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour or otherwise, and includes a learner and a member of a municipal volunteer fire brigade and a member of a municipal volunteer ambulance brigade, and an auxiliary member of a police force, and includes a person deemed to be an employee under section 11, and includes a person who is called out under *The Fires Extinguishment Act* or who is summoned to assist in controlling and extinguishing a fire under *The Forest Fires Prevention Act* or who assists in any search and rescue operation at the request of and under the direction of a member of the Ontario Provincial Police Force, but where used in Part I does not include an outworker, or an executive officer of a corporation or a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business.

- (2) Clause *x* of subsection 1 of the said section 1, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, is repealed.
- (3) Subsection 2 of the said section 1 is amended by adding “or” at the end of clause *b* and by adding thereto the following clause:

- (c) who assists in any search and rescue operation at the request of and under the direction of a member of the Ontario Provincial Police Force, shall be deemed to be an employee of the Crown in right of Ontario while so engaged,

. . . . .

s. 11,  
re-enacted

2. Section 11 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 173, section 3, is repealed and the following substituted therefor:

Person  
may be  
deemed  
to be  
employee

11.—(1) On application, an employer, an independent operator, a person the Board deems to be an employer, or an executive officer of a corporation may elect to be deemed an employee for the purposes of this Act, provided that,

- (a) he is carried on the payroll of the business at his actual earnings for the year, or files with the Board a statement of his estimated earnings for the year which is acceptable to the Board; and

- (b) he consents to the application.

Idem

(2) A person shall not be deemed under subsection 1 to be an employee unless the rate of his estimated or actual earnings yields the minimum amount of compensation provided by section 43.

Entitlement  
to  
compensation

(3) No person deemed an employee under subsection 1 shall be entitled to more compensation than the maximum provided by sections 39 and 44.

s. 36 (1) (a),  
re-enacted

- 3.—(1) Clause *a* of subsection 1 of section 36 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 46, section 1 and amended by 1973, chapter 173, section 1, is repealed and the following substituted therefor:

- (a) the necessary expenses of the burial or cremation of the employee, not exceeding \$600.

s. 36 (3),  
re-enacted

- (2) Subsection 3 of the said section 36, as re-enacted by the Statutes of Ontario, 1973, chapter 173, section 5, is repealed and the following substituted therefor:

Idem

(3) A dependent common-law wife or husband receiving compensation under this section may not be paid compensation for acting or claiming to act as a person described in subsection 6.

SECTION 2. An application for personal coverage and independent operator coverage are combined. The section provides that the consent of the person covered must be obtained.

SECTION 3. Increases a burial allowance to \$600 from \$500.

SECTION 4. Self-explanatory.

SECTION 5. Compensation payments for temporary disability are adjusted.

SECTION 6.—Subsection 1. This subsection allows the Board to supplement a permanent disability award where the impairment of earning capacity is greater than usual for the injury.



- (3) Subsection 7 of the said section 36, as re-enacted by the <sup>s. 36 (7), re-enacted</sup> Statutes of Ontario, 1973, chapter 173, section 5, is repealed and the following substituted therefor:

(7) In addition to any other compensation provided for, <sup>Payment of lump sum</sup> the widow or widower, or where the employee leaves no widow or widower, the person described in subsection 6, is entitled to a lump sum of \$600.

4. Subsections 1 and 3 of section 3 apply only in respect of <sup>Application</sup> accidents occurring on or after the 1st day of July, 1975.

5. The said Act is amended by adding thereto the following <sup>s. 41a, enacted</sup> section:

41a.—(1) Where the Board considers it more equitable, <sup>Adjustment of rate of compensation</sup> it may adjust the rate of compensation being paid for temporary disability by adding an additional 2 per cent of the initial compensation rate for each year from the date of the accident up to and including the year 1971, and 4 per cent of the initial compensation rate for each of the years 1972 and 1973, and 10 per cent of the initial compensation rate for the year 1974, provided that the compensation rate so adjusted shall not exceed the maximum established by sections 39 and 44.

(2) This section applies to payments accruing on and after <sup>Application</sup> the 1st day of July, 1975, but nothing herein entitles any person to claim additional compensation for any period prior to the 1st day of July, 1975.

- 6.—(1) Subsections 1 and 5 of section 42 of the said Act, as <sup>s. 42 (1, 5), re-enacted</sup> amended by the Statutes of Ontario, 1973, chapter 173, section 1, are repealed and the following substituted therefor:

(1) Where permanent disability results from the injury, <sup>Permanent disability</sup> the impairment of earning capacity of the employee shall be estimated from the nature and degree of the injury, and the compensation shall be a weekly or other periodical payment during the lifetime of the employee, or such other period as the Board may fix, of a sum proportionate to such impairment not exceeding in any case the like proportion of 75 per cent of his average weekly earnings during the twelve months immediately preceding the accident or such lesser period as he has been employed.

Amount  
awarded  
may be  
supplemented

(5) Notwithstanding subsection 1, where the impairment of earning capacity of the employee is significantly greater than is usual for the nature and degree of his injury, the Board may supplement the amount awarded for permanent partial disability for such period as the Board may fix, provided that the total sum of such supplement and award shall not exceed in any case the like proportion of 75 per cent of his average weekly earnings during the twelve months immediately preceding the accident or such lesser period as he has been employed, and provided that he co-operates in and is available for a medical or vocational rehabilitation program which would in the opinion of the Board aid in getting him back to work, or accepts or is available for employment which is available and which in the opinion of the Board is suitable for his capabilities.

s. 42,  
amended

(2) The said section 42, as amended by the Statutes of Ontario, 1973, chapter 173, section 1 and 1974, chapter 70, section 3, is further amended by adding thereto the following subsections:

Application

(8a) Where the injury occurred prior to the 31st day of December, 1973 and an award for permanent disability is made after the 31st day of December, 1973, and the award is based on earnings prior to the 31st day of December, 1973, subsection 8 shall apply as if the award were made on the 31st day of December, 1973.

Increase  
in  
payments

(8b) The amounts payable under this section shall be increased by adding thereto 10 per cent thereof, effective on the 1st day of July, 1975.

s. 42 (9),  
re-enacted

(3) Subsection 9 of the said section 42, as enacted by the Statutes of Ontario, 1974, chapter 70, section 3, is repealed and the following substituted therefor:

Non-  
application  
of  
subss. 4, 6,  
8-8b, s. 43 (b)

(9) Subsections 8, 8a and 8b do not apply to a commutation lump sum award, an award under subsection 4 or 6 of this section or an award under clause b of section 43 which the Board has made under this Part.

Application  
of subs. 8b

(10) Subsection 8b applies to monthly payments accruing on or after the 1st day of July, 1975, where the injury occurred on or before the 31st day of December, 1974.

Application

7. Section 6 applies to monthly payments accruing on or after the 1st day of July, 1975, whether the accident occurred before or after that date and whether the award of compensation was made before or after that date, but nothing therein entitles any person to claim additional compensation for any period prior to the 1st day of July, 1975.

Subsection 2. This subsection provides an additional 10 per cent for a permanent disability pension as of July 1st, 1975. The subsection also extends subsection 8 of section 42 of the Act to persons injured before the 31st day of December, 1973, who are awarded a pension after that date.

SECTION 7. Self-explanatory.

SECTION 8.—Subsection 1. This subsection increases the minimum amount of compensation for temporary total disability to the employee's average earnings or \$90 a week, whichever is less. The present minimum is \$55 or his average earnings, whichever is less.

Subsection 2. This subsection increases the minimum award for permanent total disability to \$400 a month from \$260 a month.

SECTIONS 9 AND 11. Self-explanatory.

SECTION 10. The earnings ceiling is increased to \$15,000 from \$12,000.

SECTION 12. This section extends the allowance for the repair and replacement of clothing to cover damage caused by a back brace or permanent leg brace.

- 8.—(1) Clause *a* of section 43 of the said Act, as re-enacted by <sup>s. 43 (a),</sup> the Statutes of Ontario, 1973, chapter 46, section 2, is re-enacted repealed and the following substituted therefor:

(a) for temporary total disability,

(i) where his average earnings are not less than \$90 a week, \$90 a week, and

(ii) where his average earnings are less than \$90 a week, the amount of such earnings,

and for temporary partial disability, a proportionate amount in accordance with the impairment of earning capacity; and

. . . . .

- (2) Subclause i of clause *b* of the said section 43, as re-enacted <sup>s. 43 (b) (i),</sup> by the Statutes of Ontario, 1974, chapter 70, section 4, re-enacted is repealed and the following substituted therefor:

(i) for permanent total disability, \$400 a month, and

. . . . .

9. Section 8 applies to payments accruing on and after the <sup>Application</sup> 1st day of July, 1975, but nothing therein entitles any person to claim additional compensation for any period prior to the 1st day of July, 1975.
10. Subsection 1 of section 44 of the said Act, as amended by the <sup>s. 44 (1),</sup> Statutes of Ontario, 1973, chapter 173, section 1 and 1974, amended chapter 70, section 5, is further amended by striking out "\$12,000" in the amendment of 1974 and inserting in lieu thereof "\$15,000".
11. Section 10 applies to payments accruing on and after the <sup>Application</sup> 1st day of July, 1975, but does not apply to a commutation lump sum award, an award under subsection 4 or 6 of section 42 of the Act, or an award under clause *b* of section 43 of the Act, and nothing in section 10 entitles any person to claim additional compensation for any period prior to the 1st day of July, 1975.
12. Clause *b* of subsection 3 of section 51 of the said Act, as <sup>s. 51 (3) (b),</sup> re-enacted by the Statutes of Ontario, 1974, chapter 70, re-enacted section 6, is repealed and the following substituted therefor:.



- (b) on application, an allowance not exceeding \$168 per annum for the replacement or repair of clothing worn or damaged by reason of the wearing of a lower limb prosthesis or a back brace for a permanent back disability or a permanent leg brace, and not exceeding \$84 per annum in respect of an upper limb prosthesis, where such lower or upper limb prosthesis, back brace or permanent leg brace are supplied by the Board,

. . . . .

s. 91,  
repealed

- 13.** Section 91 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, is repealed.

s. 117 (3),  
re-enacted

- 14.** Subsection 3 of section 117 of the said Act is repealed and the following substituted therefor:

Default  
in  
reporting  
accident  
or claim

- (3) Every employer who makes default in reporting or furnishing particulars of any accident or claim shall, in addition to any other penalty or liability, pay to the Board the amount set out in the regulations and the Board, subject to the approval of the Lieutenant Governor in Council, may make regulations for such purpose.

s. 118,  
amended

- 15.** Section 118 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 46, section 6 and 1973, chapter 173, sections 1 and 9, is further amended by adding thereto the following subsection:

Remuner-  
ation  
and  
expenses  
of medical  
officers  
R.S.O. 1970,  
c. 274

- (9) The Board may pay the remuneration and expenses of such medical officers as may be required to carry out the provisions of *The Mining Act* for the examination of employees or applicants for employment, out of the rates imposed under this Act for payment of silicosis claims.

Increase  
in  
monthly  
payments

- 16.—(1)** The amounts payable under clauses *c*, *d*, *e* and *f* of subsection 1 and subsections 4 and 10 of section 36 of the said Act shall be increased by adding thereto 10 per cent thereof, effective on the 1st day of July, 1975.

Idem

- (2) Subsection 1 applies to monthly payments accruing on or after the 1st day of July, 1975, whether the accident occurred before or after that date and whether the award of compensation was made before or after that date, but does not apply to a lump sum award or to payments due prior to the 1st day of July, 1975.

Commence-  
ment

- 17.** This Act shall be deemed to have come into force on the 1st day of July, 1975.

Short title

- 18.** This Act may be cited as *The Workmen's Compensation Amendment Act, 1975*.



SECTION 13. Self-explanatory.

SECTION 14. This section provides for a late filing fee to be set out by the regulations where the employer fails to report an accident to the Board.

SECTION 15. This section allows the Board to pay the remuneration and expenses of medical officers charged with carrying out the provisions of *The Mining Act*.

SECTION 16. This section increases dependants' benefits by 10 per cent effective July 1st, 1975.





An Act to amend  
The Workmen's Compensation Act

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*1st Reading*

June 12th, 1975

*2nd Reading*

June 26th, 1975

*3rd Reading*

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THE HON. J. MACBETH  
Minister of Labour

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*(Reprinted as amended by the  
Committee of the Whole House)*

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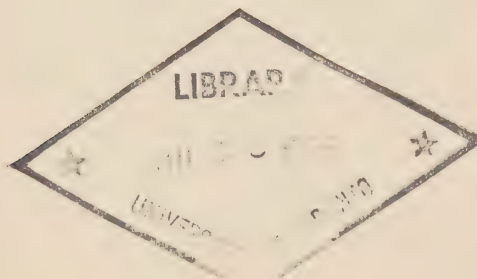
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Publications

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

Ontario. Legislative Assembly

**An Act to amend  
The Workmen's Compensation Act**

THE HON. J. MACBETH  
Minister of Labour







## An Act to amend The Workmen's Compensation Act

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 1 of *The Workmen's Compensation Act*, being chapter 505 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1973, chapter 173, sections 1 and 2, is further amended by adding thereto the following clause:

(ha) "employee" includes a person who has entered into or is employed under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour or otherwise, and includes a learner and a member of a municipal volunteer fire brigade and a member of a municipal volunteer ambulance brigade, and an auxiliary member of a police force, and includes a person deemed to be an employee under section 11, and includes a person who is called out under *The Fires Extinguishment Act* or who is summoned to assist in controlling and extinguishing a fire under *The Forest Fires Prevention Act* or who assists in any search and rescue operation at the request of and under the direction of a member of the Ontario Provincial Police Force, but where used in Part I does not include an outworker, or an executive officer of a corporation or a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business.

R.S.O. 1970,  
cc. 173, 179

- (2) Clause *x* of subsection 1 of the said section 1, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, is repealed.
- (3) Subsection 2 of the said section 1 is amended by adding "or" at the end of clause *b* and by adding thereto the following clause:

s. 1 (1) (x),  
repealed

s. 1 (2),  
amended

- (c) who assists in any search and rescue operation at the request of and under the direction of a member of the Ontario Provincial Police Force, shall be deemed to be an employee of the Crown in right of Ontario while so engaged,

s. 11,  
re-enacted

2. Section 11 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 173, section 3, is repealed and the following substituted therefor:

Person  
may be  
deemed  
to be  
employee

11.—(1) On application, an employer, an independent operator, a person the Board deems to be an employer, or an executive officer of a corporation may elect to be deemed an employee for the purposes of this Act, provided that,

- (a) he is carried on the payroll of the business at his actual earnings for the year, or files with the Board a statement of his estimated earnings for the year which is acceptable to the Board; and
- (b) he consents to the application.

Idem

(2) A person shall not be deemed under subsection 1 to be an employee unless the rate of his estimated or actual earnings yields the minimum amount of compensation provided by section 43.

Entitlement  
to  
compensation

(3) No person deemed an employee under subsection 1 shall be entitled to more compensation than the maximum provided by sections 39 and 44.

s. 36 (1) (a),  
re-enacted

- 3.—(1) Clause *a* of subsection 1 of section 36 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 46, section 1 and amended by 1973, chapter 173, section 1, is repealed and the following substituted therefor:

- (a) the necessary expenses of the burial or cremation of the employee, not exceeding \$600.

s. 36 (3),  
re-enacted

(2) Subsection 3 of the said section 36, as re-enacted by the Statutes of Ontario, 1973, chapter 173, section 5, is repealed and the following substituted therefor:

Idem

(3) A dependent common-law wife or husband receiving compensation under this section may not be paid compensation for acting or claiming to act as a person described in subsection 6.

- (3) Subsection 7 of the said section 36, as re-enacted by the Statutes of Ontario, 1973, chapter 173, section 5, is repealed and the following substituted therefor: <sup>s. 36 (7), re-enacted</sup>

(7) In addition to any other compensation provided for, the widow or widower, or where the employee leaves no widow or widower, the person described in subsection 6, is entitled to a lump sum of \$600. <sup>Payment of lump sum</sup>

4. Subsections 1 and 3 of section 3 apply only in respect of accidents occurring on or after the 1st day of July, 1975. <sup>Application</sup>

5. The said Act is amended by adding thereto the following section: <sup>s. 41a, enacted</sup>

41a.—(1) Where the Board considers it more equitable, it may adjust the rate of compensation being paid for temporary disability by adding an additional 2 per cent of the initial compensation rate for each year from the date of the accident up to and including the year 1971, and 4 per cent of the initial compensation rate for each of the years 1972 and 1973, and 10 per cent of the initial compensation rate for the year 1974, provided that the compensation rate so adjusted shall not exceed the maximum established by sections 39 and 44. <sup>Adjustment of rate of compensation</sup>

(2) This section applies to payments accruing on and after the 1st day of July, 1975, but nothing herein entitles any person to claim additional compensation for any period prior to the 1st day of July, 1975. <sup>Application</sup>

- 6.—(1) Subsections 1 and 5 of section 42 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, are repealed and the following substituted therefor: <sup>s. 42 (1, 5), re-enacted</sup>

(1) Where permanent disability results from the injury, the impairment of earning capacity of the employee shall be estimated from the nature and degree of the injury, and the compensation shall be a weekly or other periodical payment during the lifetime of the employee, or such other period as the Board may fix, of a sum proportionate to such impairment not exceeding in any case the like proportion of 75 per cent of his average weekly earnings during the twelve months immediately preceding the accident or such lesser period as he has been employed. <sup>Permanent disability</sup>

Amount  
awarded  
may be  
supplemented

(5) Notwithstanding subsection 1, where the impairment of earning capacity of the employee is significantly greater than is usual for the nature and degree of his injury, the Board may supplement the amount awarded for permanent partial disability for such period as the Board may fix, provided that the total sum of such supplement and award shall not exceed in any case the like proportion of 75 per cent of his average weekly earnings during the twelve months immediately preceding the accident or such lesser period as he has been employed, and provided that he co-operates in and is available for a medical or vocational rehabilitation program which would in the opinion of the Board aid in getting him back to work, or accepts or is available for employment which is available and which in the opinion of the Board is suitable for his capabilities.

s. 42,  
amended

(2) The said section 42, as amended by the Statutes of Ontario, 1973, chapter 173, section 1 and 1974, chapter 70, section 3, is further amended by adding thereto the following subsections:

Application

(8a) Where the injury occurred prior to the 31st day of December, 1973 and an award for permanent disability is made after the 31st day of December, 1973, and the award is based on earnings prior to the 31st day of December, 1973, subsection 8 shall apply as if the award were made on the 31st day of December, 1973.

Increase  
in  
payments

(8b) The amounts payable under this section shall be increased by adding thereto 10 per cent thereof, effective on the 1st day of July, 1975.

s. 42 (9),  
re-enacted

(3) Subsection 9 of the said section 42, as enacted by the Statutes of Ontario, 1974, chapter 70, section 3, is repealed and the following substituted therefor:

Non-  
application  
of  
subss. 4, 6,  
8-8b, s. 43 (b)

(9) Subsections 8, 8a and 8b do not apply to a commutation lump sum award, an award under subsection 4 or 6 of this section or an award under clause b of section 43 which the Board has made under this Part.

Application  
of subs. 8b

(10) Subsection 8b applies to monthly payments accruing on or after the 1st day of July, 1975, where the injury occurred on or before the 31st day of December, 1974.

Application

7. Section 6 applies to monthly payments accruing on or after the 1st day of July, 1975, whether the accident occurred before or after that date and whether the award of compensation was made before or after that date, but nothing therein entitles any person to claim additional compensation for any period prior to the 1st day of July, 1975.

- 8.—(1) Clause *a* of section 43 of the said Act, as re-enacted by <sup>s. 43 (a),</sup> the Statutes of Ontario, 1973, chapter 46, section 2, is <sup>re-enacted</sup> repealed and the following substituted therefor:

(a) for temporary total disability,

(i) where his average earnings are not less than \$90 a week, \$90 a week, and

(ii) where his average earnings are less than \$90 a week, the amount of such earnings,

and for temporary partial disability, a proportionate amount in accordance with the impairment of earning capacity; and

. . . . .

- (2) Subclause i of clause *b* of the said section 43, as re-enacted <sup>s. 43 (b) (i),</sup> by the Statutes of Ontario, 1974, chapter 70, section 4, <sup>re-enacted</sup> is repealed and the following substituted therefor:

(i) for permanent total disability, \$400 a month, and

. . . . .

9. Section 8 applies to payments accruing on and after the <sup>Application</sup> 1st day of July, 1975, but nothing therein entitles any person to claim additional compensation for any period prior to the 1st day of July, 1975.
10. Subsection 1 of section 44 of the said Act, as amended by the <sup>s. 44 (1),</sup> Statutes of Ontario, 1973, chapter 173, section 1 and 1974, <sup>amended</sup> chapter 70, section 5, is further amended by striking out "\$12,000" in the amendment of 1974 and inserting in lieu thereof "\$15,000".
11. Section 10 applies to payments accruing on and after the <sup>Application</sup> 1st day of July, 1975, but does not apply to a commutation lump sum award, an award under subsection 4 or 6 of section 42 of the Act, or an award under clause *b* of section 43 of the Act, and nothing in section 10 entitles any person to claim additional compensation for any period prior to the 1st day of July, 1975.
12. Clause *b* of subsection 3 of section 51 of the said Act, as <sup>s. 51 (3) (b),</sup> re-enacted by the Statutes of Ontario, 1974, chapter 70, <sup>re-enacted</sup> section 6, is repealed and the following substituted therefor:.



- (b) on application, an allowance not exceeding \$168 per annum for the replacement or repair of clothing worn or damaged by reason of the wearing of a lower limb prosthesis or a back brace for a permanent back disability or a permanent leg brace, and not exceeding \$84 per annum in respect of an upper limb prosthesis, where such lower or upper limb prosthesis, back brace or permanent leg brace are supplied by the Board,

. . . . .

s. 91,  
repealed

- 13.** Section 91 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, is repealed.

s. 117 (3),  
re-enacted

- 14.** Subsection 3 of section 117 of the said Act is repealed and the following substituted therefor:

Default  
in  
reporting  
accident  
or claim

(3) Every employer who makes default in reporting or furnishing particulars of any accident or claim shall, in addition to any other penalty or liability, pay to the Board the amount set out in the regulations and the Board, subject to the approval of the Lieutenant Governor in Council, may make regulations for such purpose.

s. 118,  
amended

- 15.** Section 118 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 46, section 6 and 1973, chapter 173, sections 1 and 9, is further amended by adding thereto the following subsection:

Remuner-  
ation  
and  
expenses  
of medical  
officers  
R.S.O. 1970,  
c. 274

(9) The Board may pay the remuneration and expenses of such medical officers as may be required to carry out the provisions of *The Mining Act* for the examination of employees or applicants for employment, out of the rates imposed under this Act for payment of silicosis claims.

Increase  
in  
monthly  
payments

- 16.—(1)** The amounts payable under clauses *c*, *d*, *e* and *f* of subsection 1 and subsections 4 and 10 of section 36 of the said Act shall be increased by adding thereto 10 per cent thereof, effective on the 1st day of July, 1975.

Idem

- (2) Subsection 1 applies to monthly payments accruing on or after the 1st day of July, 1975, whether the accident occurred before or after that date and whether the award of compensation was made before or after that date, but does not apply to a lump sum award or to payments due prior to the 1st day of July, 1975.

Commence-  
ment

- 17.** This Act shall be deemed to have come into force on the 1st day of July, 1975.

Short title

- 18.** This Act may be cited as *The Workmen's Compensation Amendment Act, 1975*.









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An Act to amend  
The Workmen's Compensation Act

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*1st Reading*

June 12th, 1975

*2nd Reading*

June 26th, 1975

*3rd Reading*

July 2nd, 1975

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THE HON. J. MACBETH  
Minister of Labour

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BILL 107

Government  
Publications  
Government Bill

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

Ontario. Legislative Assembly

## An Act to amend The Municipal Act

THE HON. W. D. McKEOUGH  
Treasurer of Ontario and Minister of Economics  
and Intergovernmental Affairs



TORONTO

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#### EXPLANATORY NOTES

SECTION 1. The amendments are to make it clear that the power of a municipality to make grants includes the power to do so by way of loan or the guarantee of a loan.

SECTION 2.—Subsections 1 and 2. The amendments remove the requirement that the Ministry approve the termination or amendment of an approved pension plan.



## An Act to amend The Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Section 248a of *The Municipal Act*, being chapter 284 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1974, chapter 136, section 3, is amended by inserting after “Act” in the first line “or in any other general or special Act” and by inserting after “grants” in the third line “on such terms and conditions as to security and otherwise as the council may consider expedient”. s. 248a,  
amended
- (2) The said section 248a is further amended by adding thereto the following subsections: s. 248a,  
amended
  - (2) The power to make a grant includes the power to guarantee a loan and to make a grant by way of loan and to charge interest on such loan. Loans  
and  
guarantees
  - (3) A guarantee of loan made under this section shall be deemed to be a debt for the purposes of section 293 and, where the term of the loan in respect of which such guarantee is made may extend beyond the current year, such guarantee shall be deemed to be an act, the cost of which is to be raised in a subsequent year and shall be subject to the provisions of section 64 of *The Ontario Municipal Board Act*. Applica-  
tion  
R.S.O. 1970,  
c. 323
  - (4) For the purposes of this section, “person” includes a municipal corporation. Interpre-  
tation
- 2.—(1) Subsection 2 of section 250 of the said Act is amended by striking out “Subject to the approval of the Ministry” in the first line. s. 250 (2),  
amended
- (2) Subsection 3 of the said section 250 is repealed. s. 250 (3),  
repealed
- (3) Subsection 4 of the said section 250, as re-enacted by the Statutes of Ontario, 1973, chapter 175, section 2, s. 250 (4),  
amended

is amended by striking out "or the year's maximum pensionable earnings established at the time he ceased to be employed by the municipality or local board" in the thirteenth, fourteenth and fifteenth lines and inserting in lieu thereof "or the average of the year's maximum pensionable earnings for the year in which he ceases to be employed by the municipality or local board and for each of the two preceding years".

s. 304a,  
amended

- 3.—(1) Section 304a of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 124, section 6 and amended by 1973, chapter 83, section 5 and 1974, chapter 136, section 8, is further amended by adding thereto the following subsections:

Interpre-  
tation

(3f) For purposes of subsection 3a, a telephone company that is entitled to receipts from another telephone company under a traffic agreement means a telephone company that is entitled to receive the net balance of the long distance revenues collected under the terms of a traffic agreement after the commissions and associated claims payable under that agreement have been settled.

Idem

(3g) For purposes of subsection 3b, a telephone company which makes payment to another telephone company under the terms of a traffic agreement means a telephone company which transmits to another telephone company pursuant to the terms of a traffic agreement the net balance of the long distance revenues collected under the terms of that traffic agreement after the commissions and associated claims payable under the agreement have been settled.

Idem

(3h) For purposes of subsection 3d, toll traffic means traffic for which a subscriber is charged according to a long distance tariff.

s. 304a (6),  
re-enacted

- (2) Subsection 6 of the said section 304a, as enacted by the Statutes of Ontario, 1973, chapter 83, section 5, is repealed and the following substituted therefor:

Levy before  
estimates  
adopted

(6) Section 303 applies *mutatis mutandis* to an annual tax levied by any local municipality under this section, except that the amount which may be levied against any company pursuant to this subsection shall not exceed 50 per cent of the total annual tax levied by such local municipality against that company in the next preceding year under subsection 4 and 4a, and no levy may be made pursuant to this subsection in any year unless the municipality has by by-law provided generally for a levy before the adoption of the estimates for that year.

Subsection 3. The effect of the amendment is to slightly alter the formula to be used in integrating a municipal pension plan with the Canada Pension Plan; the change brings the formula in line with that used in *The Public Service Superannuation Act*.

SECTION 3.—Subsection 1. The subsections added are designed to clarify the provisions relating to the taxation of the long distance receipts of a telephone company.

Subsection 2. The amendment provides that a municipality may make a pre-estimate levy on telephone companies only if it is making such a levy generally in the municipality and restricts the amount to 50 per cent of the amount levied in the preceding year.

SECTION 4. General granting powers are now given to all municipalities under section 248a of the Act; the amendments remove certain specific granting provisions.

SECTION 5.—Subsection 1. A specific granting provision is removed; see the note to section 4 of the Bill.

Subsection 2. The paragraph added permits municipalities to remove snow and ice from sidewalks and walkways without charge in the case of premises owned or occupied by certain classes of persons.

- 4.—(1) Paragraph 13 of section 352 of the said Act is amended by striking out “and for making contributions towards the expenses of such Association and paying the expenses of delegates to any meeting of it or upon its business” in the third, fourth and fifth lines and inserting in lieu thereof “and paying the expenses of delegates to any meeting of such Association or upon its business”. s. 352,  
par. 13,  
amended
- (2) Paragraph 14 of the said section 352 is repealed. s. 352, par. 14,  
repealed
- (3) Paragraph 27 of the said section 352 is repealed. s. 352, par. 27,  
repealed
- (4) Paragraph 29 of the said section 352 is amended by striking out “or for granting money to aid in the construction of” in the first and second lines. s. 352, par. 29,  
amended
- (5) Paragraph 32 of the said section 352 is amended by striking out “or for granting money in aid” in the fourth line. s. 352, par. 32,  
amended
- (6) Paragraph 33 of the said section 352 is amended by striking out “granting or” in the first line. s. 352, par. 33,  
amended
- (7) Paragraph 33a, as enacted by the Statutes of Ontario, 1972, chapter 124, section 9, and paragraph 34 of the said section 352 are repealed. s. 352, pars.  
33a, 34,  
repealed
- (8) Paragraph 39 of the said section 352 is amended by striking out “money or” in the first line. s. 352, par. 39,  
amended
- (9) Paragraph 40 of the said section 352 is amended by striking out “money or” in the first line. s. 352, par. 40,  
amended
- (10) Paragraph 42 of the said section 352 is amended by striking out “grants or” in the first and second lines. s. 352, par. 42,  
amended
- (11) Paragraphs 45 and 46 of the said section 352 are repealed. s. 352, pars.  
45, 46,  
repealed
- 5.—(1) Paragraph 51 of subsection 1 of section 354 of the said Act is repealed. s. 354 (1),  
par. 51,  
repealed
- (2) Subsection 1 of the said section 354 is amended by adding thereto the following paragraph:

57a. Notwithstanding paragraphs 55 and 57, for providing for the clearing away and removal of snow and ice at the expense of the municipality from the sidewalks on the highways in front of, alongside or at the rear of buildings owned or occupied by any class or classes of persons, and from those portions of walkways between the highways or the

Removal of  
snow and  
ice from  
sidewalks,  
etc., at  
municipa-  
lity's  
expense



public sidewalks on highways, as the case may be, and the lowest step of the principal place of entrance of such buildings.

s. 366,  
par. 1,  
repealed  
s. 367,  
repealed

6. Paragraph 1 of section 366 of the said Act is repealed.

7. Section 367 of the said Act is repealed.

s. 368a,  
enacted

8. The said Act is amended by adding thereto the following section:

Licensing,  
regulating,  
etc., body-  
rub parlours

368a.—(1) By-laws may be passed by the councils of all municipalities for licensing, regulating, governing and inspecting body-rub parlours and for revoking or suspending any such licence and for limiting the number of licences to be granted, in accordance with subsection 3.

Signs,  
advertising,  
etc.

(2) A by-law passed under this section may provide for regulating the placement, construction, size, nature and character of signs, advertising, and advertising devices posted or used for the purpose of promoting body-rub parlours or for the prohibition of such signs, advertising, or advertising devices.

Defined areas,  
limitation  
on numbers

(3) A by-law passed under this section may define the area or areas of the municipality in which body-rub parlours may or may not operate and may limit the number of licences to be granted in respect of body-rub parlours in any such area or areas in which they are permitted.

Construction  
and equip-  
ment of  
premises

(4) A by-law passed under this section may provide that no premises in which a body-rub parlour is located shall be constructed or equipped so as to hinder or prevent the enforcement of the by-law.

Entry

(5) Where a medical officer of health or a public health inspector acting under his direction, or a peace officer, has reason to suspect that a breach of any provision of a by-law passed under this section has occurred in respect of a body-rub parlour, he may enter such body-rub parlour, at any time of the night or day, for purposes of carrying out the enforcement of a by-law passed under this section.

Interpre-  
tation

(6) For the purposes of this section,

(a) "body-rub" includes the kneading, manipulating, rubbing, massaging, touching, or stimulating, by any means, of a person's body or part thereof but does not include medical or therapeutic treatment given by a person otherwise duly qualified, licensed



SECTION 6. A specific granting provision is removed; see the note to section 4 of the Bill.

SECTION 7. A specific granting provision is removed; see the note to section 4 of the Bill.

SECTION 8. Municipalities are given the power to license, regulate, govern and inspect body-rub parlours.

SECTION 9. To the same effect as section 4 of the Bill, in relation to a specific granting provision.

SECTION 10. The effect of the amendment is to confer on the council of a county the same powers with respect to regulating traffic on a county road as a local municipality has with respect to roads under its jurisdiction.

SECTION 11. A specific granting provision is removed; see the note to section 4 of the Bill.

SECTION 12. A specific granting provision is removed; see the note to section 4 of the Bill.

SECTION 13. The effect of the amendments is to continue to empower police villages to make grants in the circumstances indicated; the amendment is required because such powers are presently conferred by reference to specific granting clauses to municipalities, now being removed by previous sections of the Bill.

or registered so to do under the laws of the Province of Ontario; and

- (b) "body-rub parlour" includes any premises or part thereof where a body-rub is performed, offered or solicited in pursuance of a trade, calling, business or occupation, but does not include any premises or part thereof where the body-rubs performed are for the purpose of medical or therapeutic treatment and are performed or offered by persons otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario.

9. Paragraph 1 of section 371 of the said Act is amended by striking out "for making contributions towards the expenses of such Association and paying the expenses of delegates to any meeting of it or upon its business" in the third, fourth and fifth lines and inserting in lieu thereof "paying the expenses of delegates to any meeting of such Association or upon its business". s. 371, par. 1,  
amended
10. Paragraph 10 of section 373 of the said Act is repealed and the following substituted therefor: s. 373, par. 10,  
re-enacted
10. In respect of highways under the jurisdiction of the council,
- (a) for licensing, regulating and governing the keepers of livery stables, and of horses, cabs, carriages, omnibuses and other vehicles used or kept for hire, and teamsters; Licensing  
livery  
stables,  
etc.
- (b) for regulating the fares to be charged for the conveyance of goods or passengers; Rates  
of  
fare
- (c) for the exercise of the powers conferred upon the councils of local municipalities by paragraph 107 of subsection 1 of section 354. Regulating  
traffic
11. Subsection 8 of section 412 of the said Act is repealed. s. 412 (8),  
repealed
12. Clause *b* of subsection 4 of section 457 of the said Act is repealed. s. 457 (4) (b),  
repealed
- 13.—(1) Clause *b* of subsection 1 of section 487 of the said Act is amended by adding at the end thereof "and may grant money to such public libraries". s. 487 (1) (b),  
amended
- (2) Clause *l* of subsection 1 of the said section 487 is amended by adding at the end thereof "and may grant money s. 487 (1) (l),  
amended

to be expended for the planting of shade or ornamental trees upon any such highway”.

Commence-  
ment

**14.**—(1) This Act, except subsection 1 of section 3, comes into force on the day it receives Royal Assent.

Idem

(2) Subsection 1 of section 3 shall be deemed to have come into force on the 14th day of February, 1975.

Short title

**15.** This Act may be cited as *The Municipal Amendment Act, 1975*.









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## BILL 107

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An Act to amend  
The Municipal Act

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*1st Reading*

June 12th, 1975

*2nd Reading*

*3rd Reading*

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THE HON. W. D. McKEOUGH  
Treasurer of Ontario and  
Minister of Economics and  
Intergovernmental Affairs

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*(Government Bill)*

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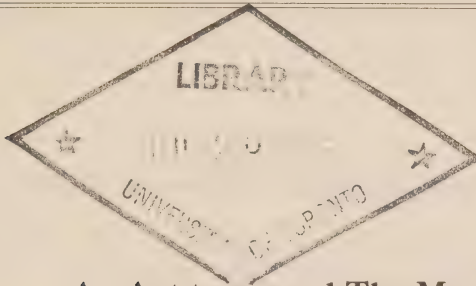
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Government Bill

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

Government  
Publications



**An Act to amend The Municipal Act**

**Ontario. Legislative Assembly**  
/ "

THE HON. W. D. McKEOUGH  
Treasurer of Ontario and Minister of Economics  
and Intergovernmental Affairs

*(Reprinted as amended by the Committee of the Whole House)*

#### EXPLANATORY NOTES

SECTION 1. The amendments are to make it clear that the power of a municipality to make grants includes the power to do so by way of loan or the guarantee of a loan.

SECTION 2.—Subsections 1 and 2. The amendments remove the requirement that the Ministry approve the termination or amendment of an approved pension plan.

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amended
- (2) The said section 248a is further amended by adding thereto the following subsections:
  - (2) The power to make a grant includes the power to guarantee a loan and to make a grant by way of loan and to charge interest on such loan. Loans  
and  
guarantees
  - (3) A guarantee of loan made under this section shall be deemed to be a debt for the purposes of section 293 and, where the term of the loan in respect of which such guarantee is made may extend beyond the current year, such guarantee shall be deemed to be an act, the cost of which is to be raised in a subsequent year and shall be subject to the provisions of section 64 of *The Ontario Municipal Board Act*. Applica-  
tion  
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  - (4) For the purposes of this section, “person” includes a municipal corporation. Interpre-  
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- 2.—(1) Subsection 2 of section 250 of the said Act is amended by striking out “Subject to the approval of the Ministry” in the first line. s. 250 (2),  
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- (2) Subsection 3 of the said section 250 is repealed. s. 250 (3),  
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- (3) Subsection 4 of the said section 250, as re-enacted by the Statutes of Ontario, 1973, chapter 175, section 2, s. 250 (4),  
amended

is amended by striking out "or the year's maximum pensionable earnings established at the time he ceased to be employed by the municipality or local board" in the thirteenth, fourteenth and fifteenth lines and inserting in lieu thereof "or the average of the year's maximum pensionable earnings for the year in which he ceases to be employed by the municipality or local board and for each of the two preceding years".

s. 304a,  
amended

- 3.—**(1) Section 304a of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 124, section 6 and amended by 1973, chapter 83, section 5 and 1974, chapter 136, section 8, is further amended by adding thereto the following subsections:

Interpre-  
tation

(3f) For purposes of subsection 3a, a telephone company that is entitled to receipts from another telephone company under a traffic agreement means a telephone company that is entitled to receive the net balance of the long distance revenues collected under the terms of a traffic agreement after the commissions and associated claims payable under that agreement have been settled.

Idem

(3g) For purposes of subsection 3b, a telephone company which makes payment to another telephone company under the terms of a traffic agreement means a telephone company which transmits to another telephone company pursuant to the terms of a traffic agreement the net balance of the long distance revenues collected under the terms of that traffic agreement after the commissions and associated claims payable under the agreement have been settled.

Idem

(3h) For purposes of subsection 3d, toll traffic means traffic for which a subscriber is charged according to a long distance tariff.

s. 304a (6),  
re-enacted

- (2) Subsection 6 of the said section 304a, as enacted by the Statutes of Ontario, 1973, chapter 83, section 5, is repealed and the following substituted therefor:

Levy before  
estimates  
adopted

(6) Section 303 applies *mutatis mutandis* to an annual tax levied by any local municipality under this section, except that the amount which may be levied against any company pursuant to this subsection shall not exceed 50 per cent of the total annual tax levied by such local municipality against that company in the next preceding year under subsection 4 and 4a, and no levy may be made pursuant to this subsection in any year unless the municipality has by by-law provided generally for a levy before the adoption of the estimates for that year.



SECTION 3.—Subsection 1. The subsections added are designed to clarify the provisions relating to the taxation of the long distance receipts of a telephone company.

Subsection 2. The amendment provides that a municipality may make a pre-estimate levy on telephone companies only if it is making such a levy generally in the municipality and restricts the amount to 50 per cent of the amount levied in the preceding year.

SECTION 4. General granting powers are now given to all municipalities under section 248*a* of the Act; the amendments remove certain specific granting provisions.

SECTION 5.—Subsection 1. A specific granting provision is removed; see the note to section 4 of the Bill.

Subsection 2. The paragraph added permits municipalities to remove snow and ice from sidewalks and walkways without charge in the case of premises owned or occupied by certain classes of persons.

- 4.—(1) Paragraph 13 of section 352 of the said Act is amended by striking out “and for making contributions towards the expenses of such Association and paying the expenses of delegates to any meeting of it or upon its business” in the third, fourth and fifth lines and inserting in lieu thereof “and paying the expenses of delegates to any meeting of such Association or upon its business”. s. 352,  
par. 13,  
amended
- (2) Paragraph 14 of the said section 352 is repealed. s. 352, par. 14,  
repealed
- (3) Paragraph 27 of the said section 352 is repealed. s. 352, par. 27,  
repealed
- (4) Paragraph 29 of the said section 352 is amended by striking out “or for granting money to aid in the construction of” in the first and second lines. s. 352, par. 29,  
amended
- (5) Paragraph 32 of the said section 352 is amended by striking out “or for granting money in aid” in the fourth line. s. 352, par. 32,  
amended
- (6) Paragraph 33 of the said section 352 is amended by striking out “granting or” in the first line. s. 352, par. 33,  
amended
- (7) Paragraph 33a, as enacted by the Statutes of Ontario, 1972, chapter 124, section 9, and paragraph 34 of the said section 352 are repealed. s. 352, pars.  
33a, 34,  
repealed
- (8) Paragraph 39 of the said section 352 is amended by striking out “money or” in the first line. s. 352, par. 39,  
amended
- (9) Paragraph 40 of the said section 352 is amended by striking out “money or” in the first line. s. 352, par. 40,  
amended
- (10) Paragraph 42 of the said section 352 is amended by striking out “grants or” in the first and second lines. s. 352, par. 42,  
amended
- (11) Paragraphs 45 and 46 of the said section 352 are repealed. s. 352, pars.  
45, 46,  
repealed
- 5.—(1) Paragraph 51 of subsection 1 of section 354 of the said Act is repealed. s. 354 (1),  
par. 51,  
repealed
- (2) Subsection 1 of the said section 354 is amended by adding thereto the following paragraph:

57a. Notwithstanding paragraphs 55 and 57, for providing for the clearing away and removal of snow and ice at the expense of the municipality from the sidewalks on the highways in front of, alongside or at the rear of buildings owned or occupied by any class or classes of persons, and from those portions of walkways between the highways or the Removal of  
snow and  
ice from  
sidewalks,  
etc., at  
municipa-  
lity's  
expense

public sidewalks on highways, as the case may be, and the lowest step of the principal place of entrance of such buildings.



s. 354 (1),  
par. 126,  
re-enacted

- (3) Paragraph 126 of subsection 1 of the said section 354, as amended by the Statutes of Ontario, 1972, chapter 124, section 10, is repealed and the following substituted therefor:

Signs

126. For prohibiting or regulating signs and other advertising devices and the posting of notices on buildings or vacant lots within any defined area or areas or on land abutting on any defined highway or part of a highway and any by-law passed under this paragraph may provide that a sign or other advertising device that was lawfully erected or displayed on the day the by-law comes into force but that does not comply with the by-law, shall be,

- (a) made to comply with the by-law; or
- (b) removed by the owner thereof or by the owner of the land on which it is situate,

on or before the expiration of five years from the day the by-law comes into force.

Temporary  
signs

126a. A by-law passed under paragraph 126 may define a class or classes of signs or other advertising devices and may specify a time period during which signs or other advertising devices in a defined class may stand or be displayed in the municipality and may require the removal of such signs or other advertising devices which continue to stand or be displayed after such time period has expired.

Production  
of  
plans

126b. A by-law passed under paragraph 126 may require the production of the plans of all signs or other advertising devices to be erected, displayed, altered or repaired and provide for the charging of fees for the inspection and approval of such plans and for the fixing of the amount of such fees and for the issuing of a permit certifying to such approval and may prohibit the erection, display, alteration or repair of any sign or advertising device where a permit has not been obtained therefor and may authorize the refusal of a permit for any sign or other advertising device that if erected or displayed would be contrary to the provisions of any by-law of the municipality.

- (a) A change in the message displayed by a sign or other advertising device does not in itself constitute an alteration so as to require a permit.



SECTION 6. A specific granting provision is removed; see the note to section 4 of the Bill.

SECTION 7. A specific granting provision is removed; see the note to section 4 of the Bill.

SECTION 8. Municipalities are given the power to license, regulate, govern and inspect body-rub parlours.



126c. A by-law passed under paragraph 126 may authorize the pulling down or removal at the expense of the owner of any sign or other advertising device that is erected or displayed in contravention of the by-law and may require any person who,

Pulling down,  
etc., signs  
illegally  
erected

- (a) has caused a sign or other advertising device to be erected, displayed, altered or repaired without first having obtained a permit to do so; or
- (b) having obtained a permit has caused a sign or other advertising device to be erected, displayed, altered or repaired contrary to the approved plans in respect of which the permit was issued,

to make such sign or other advertising device comply with the by-laws of the municipality if it does not so comply or to remove such sign or other advertising device within such period of time as the by-law specifies.

6. Paragraph 1 of section 366 of the said Act is repealed.

s. 366,  
par. 1,  
repealed

7. Section 367 of the said Act is repealed.

s. 367,  
repealed

8. The said Act is amended by adding thereto the following section:

s. 368a,  
enacted

368a.—(1) By-laws may be passed by the councils of all municipalities for licensing, regulating, governing and inspecting body-rub parlours and for revoking or suspending any such licence and for limiting the number of licences to be granted, in accordance with subsection 3.

Licensing,  
regulating,  
etc., body-  
rub parlours

(2) A by-law passed under this section may provide for regulating the placement, construction, size, nature and character of signs, advertising, and advertising devices posted or used for the purpose of promoting body-rub parlours or for the prohibition of such signs, advertising, or advertising devices.

Signs,  
advertising,  
etc.

(3) A by-law passed under this section may define the area or areas of the municipality in which body-rub parlours may or may not operate and may limit the number of licences to be granted in respect of body-rub parlours in any such area or areas in which they are permitted.

Defined areas,  
limitation  
on numbers

(4) A by-law passed under this section may provide that no premises in which a body-rub parlour is located shall be constructed or equipped so as to hinder or prevent the enforcement of the by-law.

Construction  
and equip-  
ment of  
premises

Entry

(5) Where a medical officer of health or a public health inspector acting under his direction, or a peace officer, has reason to suspect that a breach of any provision of a by-law passed under this section has occurred in respect of a body-rub parlour, he may enter such body-rub parlour, at any time of the night or day, for purposes of carrying out the enforcement of a by-law passed under this section.

Interpre-  
tation

(6) For the purposes of this section,

(a) "body-rub" includes the kneading, manipulating, rubbing, massaging, touching, or stimulating, by any means, of a person's body or part thereof but does not include medical or therapeutic treatment given by a person otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario; and

(b) "body-rub parlour" includes any premises or part thereof where a body-rub is performed, offered or solicited in pursuance of a trade, calling, business or occupation, but does not include any premises or part thereof where the body-rubs performed are for the purpose of medical or therapeutic treatment and are performed or offered by persons otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario.

s. 371, par. 1,  
amended

9. Paragraph 1 of section 371 of the said Act is amended by striking out "for making contributions towards the expenses of such Association and paying the expenses of delegates to any meeting of it or upon its business" in the third, fourth and fifth lines and inserting in lieu thereof "paying the expenses of delegates to any meeting of such Association or upon its business".

s. 373, par. 10,  
re-enacted

10. Paragraph 10 of section 373 of the said Act is repealed and the following substituted therefor:

10. In respect of highways under the jurisdiction of the council,

Licensing  
livery  
stables,  
etc.

(a) for licensing, regulating and governing the keepers of livery stables, and of horses, cabs, carriages, omnibuses and other vehicles used or kept for hire, and teamsters;

Rates  
of  
fare

(b) for regulating the fares to be charged for the conveyance of goods or passengers;

SECTION 9. To the same effect as section 4 of the Bill, in relation to a specific granting provision.

SECTION 10. The effect of the amendment is to confer on the council of a county the same powers with respect to regulating traffic on a county road as a local municipality has with respect to roads under its jurisdiction.

SECTION 11. A specific granting provision is removed; see the note to section 4 of the Bill.

SECTION 12. A specific granting provision is removed; see the note to section 4 of the Bill.

SECTION 13. The effect of the amendments is to continue to empower police villages to make grants in the circumstances indicated; the amendment is required because such powers are presently conferred by reference to specific granting clauses to municipalities, now being removed by previous sections of the Bill.

(c) for the exercise of the powers conferred upon the councils of local municipalities by paragraph 107 of subsection 1 of section 354. Regulating traffic

- 11.** Subsection 8 of section 412 of the said Act is repealed. s. 412 (8),  
repealed
- 12.** Clause *b* of subsection 4 of section 457 of the said Act is repealed. s. 457 (4) (b),  
repealed
- 13.—**(1) Clause *b* of subsection 1 of section 487 of the said Act is amended by adding at the end thereof “and may grant money to such public libraries”. s. 487 (1) (b),  
amended
- (2) Clause *l* of subsection 1 of the said section 487 is amended by adding at the end thereof “and may grant money to be expended for the planting of shade or ornamental trees upon any such highway”. s. 487 (1) (l),  
amended
- 14.—**(1) This Act, except subsection 1 of section 3, comes into force on the day it receives Royal Assent. Commence-  
ment
- (2) Subsection 1 of section 3 shall be deemed to have come into force on the 14th day of February, 1975. Idem
- 15.** This Act may be cited as *The Municipal Amendment Act, 1975*. Short title

An Act to amend  
The Municipal Act

---

*1st Reading*

June 12th, 1975

*2nd Reading*

July 3rd, 1975

*3rd Reading*

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THE HON. W. D. McKEOUGH  
Treasurer of Ontario and  
Minister of Economics and  
Intergovernmental Affairs

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*(Reprinted as amended by the  
Committee of the Whole House*



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**BILL 107**

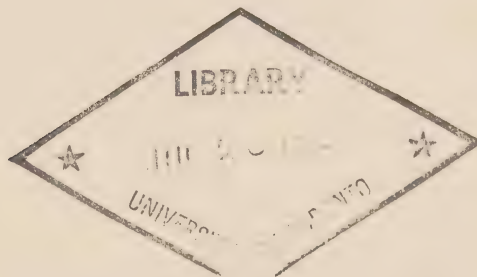
Government  
Publications

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

Ontario. Legislative Assembly

**An Act to amend The Municipal Act**

THE HON. W. D. McKEOUGH  
Treasurer of Ontario and Minister of Economics  
and Intergovernmental Affairs



TORONTO  
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



## An Act to amend The Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Section 248a of *The Municipal Act*, being chapter 284 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1974, chapter 136, section 3, is amended by inserting after “Act” in the first line “or in any other general or special Act” and by inserting after “grants” in the third line “on such terms and conditions as to security and otherwise as the council may consider expedient”. s. 248a,  
amended
- (2) The said section 248a is further amended by adding thereto the following subsections: s. 248a,  
amended
  - (2) The power to make a grant includes the power to guarantee a loan and to make a grant by way of loan and to charge interest on such loan. Loans  
and  
guarantees
  - (3) A guarantee of loan made under this section shall be deemed to be a debt for the purposes of section 293 and, where the term of the loan in respect of which such guarantee is made may extend beyond the current year, such guarantee shall be deemed to be an act, the cost of which is to be raised in a subsequent year and shall be subject to the provisions of section 64 of *The Ontario Municipal Board Act*. Applica-  
tion  
  
R.S.O. 1970,  
c. 323
  - (4) For the purposes of this section, “person” includes a municipal corporation. Interpre-  
tation
- 2.—(1) Subsection 2 of section 250 of the said Act is amended by striking out “Subject to the approval of the Ministry” in the first line. s. 250 (2),  
amended
- (2) Subsection 3 of the said section 250 is repealed. s. 250 (3),  
repealed
- (3) Subsection 4 of the said section 250, as re-enacted by the Statutes of Ontario, 1973, chapter 175, section 2, s. 250 (4),  
amended

is amended by striking out "or the year's maximum pensionable earnings established at the time he ceased to be employed by the municipality or local board" in the thirteenth, fourteenth and fifteenth lines and inserting in lieu thereof "or the average of the year's maximum pensionable earnings for the year in which he ceases to be employed by the municipality or local board and for each of the two preceding years".

s. 304a,  
amended

- 3.—**(1) Section 304a of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 124, section 6 and amended by 1973, chapter 83, section 5 and 1974, chapter 136, section 8, is further amended by adding thereto the following subsections:

Interpre-  
tation

(3f) For purposes of subsection 3a, a telephone company that is entitled to receipts from another telephone company under a traffic agreement means a telephone company that is entitled to receive the net balance of the long distance revenues collected under the terms of a traffic agreement after the commissions and associated claims payable under that agreement have been settled.

Idem

(3g) For purposes of subsection 3b, a telephone company which makes payment to another telephone company under the terms of a traffic agreement means a telephone company which transmits to another telephone company pursuant to the terms of a traffic agreement the net balance of the long distance revenues collected under the terms of that traffic agreement after the commissions and associated claims payable under the agreement have been settled.

Idem

(3h) For purposes of subsection 3d, toll traffic means traffic for which a subscriber is charged according to a long distance tariff.

s. 304a (6),  
re-enacted

- (2) Subsection 6 of the said section 304a, as enacted by the Statutes of Ontario, 1973, chapter 83, section 5, is repealed and the following substituted therefor:

Levy before  
estimates  
adopted

(6) Section 303 applies *mutatis mutandis* to an annual tax levied by any local municipality under this section, except that the amount which may be levied against any company pursuant to this subsection shall not exceed 50 per cent of the total annual tax levied by such local municipality against that company in the next preceding year under subsection 4 and 4a, and no levy may be made pursuant to this subsection in any year unless the municipality has by by-law provided generally for a levy before the adoption of the estimates for that year.

- 4.—(1) Paragraph 13 of section 352 of the said Act is amended by striking out “and for making contributions towards the expenses of such Association and paying the expenses of delegates to any meeting of it or upon its business” in the third, fourth and fifth lines and inserting in lieu thereof “and paying the expenses of delegates to any meeting of such Association or upon its business”. s. 352,  
par. 13,  
amended
- (2) Paragraph 14 of the said section 352 is repealed. s. 352, par. 14,  
repealed
- (3) Paragraph 27 of the said section 352 is repealed. s. 352, par. 27,  
repealed
- (4) Paragraph 29 of the said section 352 is amended by striking out “or for granting money to aid in the construction of” in the first and second lines. s. 352, par. 29,  
amended
- (5) Paragraph 32 of the said section 352 is amended by striking out “or for granting money in aid” in the fourth line. s. 352, par. 32,  
amended
- (6) Paragraph 33 of the said section 352 is amended by striking out “granting or” in the first line. s. 352, par. 33,  
amended
- (7) Paragraph 33*a*, as enacted by the Statutes of Ontario, 1972, chapter 124, section 9, and paragraph 34 of the said section 352 are repealed. s. 352, pars.  
33*a*, 34,  
repealed
- (8) Paragraph 39 of the said section 352 is amended by striking out “money or” in the first line. s. 352, par. 39,  
amended
- (9) Paragraph 40 of the said section 352 is amended by striking out “money or” in the first line. s. 352, par. 40,  
amended
- (10) Paragraph 42 of the said section 352 is amended by striking out “grants or” in the first and second lines. s. 352, par. 42,  
amended
- (11) Paragraphs 45 and 46 of the said section 352 are repealed. s. 352, pars.  
45, 46,  
repealed
- 5.—(1) Paragraph 51 of subsection 1 of section 354 of the said Act is repealed. s. 354 (1),  
par. 51,  
repealed
- (2) Subsection 1 of the said section 354 is amended by adding thereto the following paragraph:

57*a*. Notwithstanding paragraphs 55 and 57, for providing for the clearing away and removal of snow and ice at the expense of the municipality from the sidewalks on the highways in front of, alongside or at the rear of buildings owned or occupied by any class or classes of persons, and from those portions of walkways between the highways or the

Removal of  
snow and  
ice from  
sidewalks,  
etc., at  
municipa-  
lity's  
expense

public sidewalks on highways, as the case may be, and the lowest step of the principal place of entrance of such buildings.

s. 354 (1),  
par. 126,  
re-enacted

- (3) Paragraph 126 of subsection 1 of the said section 354, as amended by the Statutes of Ontario, 1972, chapter 124, section 10, is repealed and the following substituted therefor:

Signs

126. For prohibiting or regulating signs and other advertising devices and the posting of notices on buildings or vacant lots within any defined area or areas or on land abutting on any defined highway or part of a highway and any by-law passed under this paragraph may provide that a sign or other advertising device that was lawfully erected or displayed on the day the by-law comes into force but that does not comply with the by-law, shall be,

- (a) made to comply with the by-law; or
- (b) removed by the owner thereof or by the owner of the land on which it is situate,

on or before the expiration of five years from the day the by-law comes into force.

Temporary  
signs

126a. A by-law passed under paragraph 126 may define a class or classes of signs or other advertising devices and may specify a time period during which signs or other advertising devices in a defined class may stand or be displayed in the municipality and may require the removal of such signs or other advertising devices which continue to stand or be displayed after such time period has expired.

Production  
of  
plans

126b. A by-law passed under paragraph 126 may require the production of the plans of all signs or other advertising devices to be erected, displayed, altered or repaired and provide for the charging of fees for the inspection and approval of such plans and for the fixing of the amount of such fees and for the issuing of a permit certifying to such approval and may prohibit the erection, display, alteration or repair of any sign or advertising device where a permit has not been obtained therefor and may authorize the refusal of a permit for any sign or other advertising device that if erected or displayed would be contrary to the provisions of any by-law of the municipality.

- (a) A change in the message displayed by a sign or other advertising device does not in itself constitute an alteration so as to require a permit.



126c. A by-law passed under paragraph 126 may authorize the pulling down or removal at the expense of the owner of any sign or other advertising device that is erected or displayed in contravention of the by-law and may require any person who,

Pulling down,  
etc., signs  
illegally  
erected

- (a) has caused a sign or other advertising device to be erected, displayed, altered or repaired without first having obtained a permit to do so; or
- (b) having obtained a permit has caused a sign or other advertising device to be erected, displayed, altered or repaired contrary to the approved plans in respect of which the permit was issued,

to make such sign or other advertising device comply with the by-laws of the municipality if it does not so comply or to remove such sign or other advertising device within such period of time as the by-law specifies.

6. Paragraph 1 of section 366 of the said Act is repealed.

s. 366,  
par. 1,  
repealed

7. Section 367 of the said Act is repealed.

s. 367,  
repealed

8. The said Act is amended by adding thereto the following section:

s. 368a,  
enacted

368a.—(1) By-laws may be passed by the councils of all municipalities for licensing, regulating, governing and inspecting body-rub parlours and for revoking or suspending any such licence and for limiting the number of licences to be granted, in accordance with subsection 3.

Licensing,  
regulating,  
etc., body-  
rub parlours

(2) A by-law passed under this section may provide for regulating the placement, construction, size, nature and character of signs, advertising, and advertising devices posted or used for the purpose of promoting body-rub parlours or for the prohibition of such signs, advertising, or advertising devices.

Signs,  
advertising,  
etc.

(3) A by-law passed under this section may define the area or areas of the municipality in which body-rub parlours may or may not operate and may limit the number of licences to be granted in respect of body-rub parlours in any such area or areas in which they are permitted.

Defined areas,  
limitation  
on numbers

(4) A by-law passed under this section may provide that no premises in which a body-rub parlour is located shall be constructed or equipped so as to hinder or prevent the enforcement of the by-law.

Construction  
and equip-  
ment of  
premises

Entry

(5) Where a medical officer of health or a public health inspector acting under his direction, or a peace officer, has reason to suspect that a breach of any provision of a by-law passed under this section has occurred in respect of a body-rub parlour, he may enter such body-rub parlour, at any time of the night or day, for purposes of carrying out the enforcement of a by-law passed under this section.

Inter-  
pretation

(6) For the purposes of this section,

(a) "body-rub" includes the kneading, manipulating, rubbing, massaging, touching, or stimulating, by any means, of a person's body or part thereof but does not include medical or therapeutic treatment given by a person otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario; and

(b) "body-rub parlour" includes any premises or part thereof where a body-rub is performed, offered or solicited in pursuance of a trade, calling, business or occupation, but does not include any premises or part thereof where the body-rubs performed are for the purpose of medical or therapeutic treatment and are performed or offered by persons otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario.

s. 371, par. 1,  
amended

9. Paragraph 1 of section 371 of the said Act is amended by striking out "for making contributions towards the expenses of such Association and paying the expenses of delegates to any meeting of it or upon its business" in the third, fourth and fifth lines and inserting in lieu thereof "paying the expenses of delegates to any meeting of such Association or upon its business".

s. 373, par. 10,  
re-enacted

10. Paragraph 10 of section 373 of the said Act is repealed and the following substituted therefor:

10. In respect of highways under the jurisdiction of the council,

Licensing  
livery  
stables,  
etc.

(a) for licensing, regulating and governing the keepers of livery stables, and of horses, cabs, carriages, omnibuses and other vehicles used or kept for hire, and teamsters;

Rates  
of  
fare

(b) for regulating the fares to be charged for the conveyance of goods or passengers;

(c) for the exercise of the powers conferred upon the councils of local municipalities by paragraph 107 of subsection 1 of section 354. Regulating traffic

- 11.** Subsection 8 of section 412 of the said Act is repealed. s. 412 (8),  
repealed
- 12.** Clause *b* of subsection 4 of section 457 of the said Act is repealed. s. 457 (4) (*b*),  
repealed
- 13.**—(1) Clause *b* of subsection 1 of section 487 of the said Act is amended by adding at the end thereof “and may grant money to such public libraries”. s. 487 (1) (*b*),  
amended
- (2) Clause *l* of subsection 1 of the said section 487 is amended by adding at the end thereof “and may grant money to be expended for the planting of shade or ornamental trees upon any such highway”. s. 487 (1) (*l*),  
amended
- 14.**—(1) This Act, except subsection 1 of section 3, comes into force on the day it receives Royal Assent. Commence-  
ment
- (2) Subsection 1 of section 3 shall be deemed to have come into force on the 14th day of February, 1975. Idem
- 15.** This Act may be cited as *The Municipal Amendment Act, 1975*. Short title





An Act to amend  
The Municipal Act

*1st Reading*

June 12th, 1975

*2nd Reading*

July 3rd, 1975

*3rd Reading*

July 3rd, 1975

THE HON. W. D. McKEOUGH  
Treasurer of Ontario and  
Minister of Economics and  
Intergovernmental Affairs



**BILL 108**

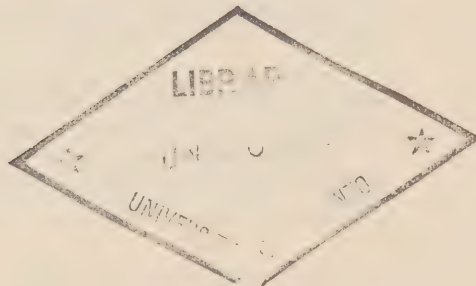
**Government Bill**

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

**Ontario. Legislative Assembly**

**An Act respecting Collective Bargaining for Colleges  
of Applied Arts and Technology**

THE HON. J. A. C. AULD  
Minister of Colleges and Universities



TORONTO

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#### EXPLANATORY NOTE

The Bill provides procedures for the making and renewing of agreements between the Ontario Council of Regents on behalf of the boards of governors of the colleges of applied arts and technology and employee organizations that represent the persons employed as academic or support staff.

Provision is made for the appointment of a fact finder and for a choice by the parties of voluntary binding arbitration or final offer selection.

The Bill prohibits strike action unless no agreement is in force, every reasonable effort has been made in good faith to make an agreement, the fact finding procedure has been carried out, the last offer of the Council has been rejected by a vote by secret ballot of the employees, a strike vote has been taken and at least five days notice of the strike and of the date on which the strike will commence has been given by the employee organization to the Council.

The College Relations Commission is established with, among other duties, those of monitoring negotiations between the employee organizations that represent the employees and the Ontario Council of Regents, the compiling of statistical information and the assisting of the parties in the making and renewing of agreements.

Provision is made for application by an employee organization to the Ontario Labour Relations Board to become the bargaining agent. Existing bargaining rights are continued and a representation rights procedure provided for displacement and termination of bargaining rights as well as expression of freedom to join an employee organization of the employee's choice.

BILL 108

1975

## An Act respecting Collective Bargaining for Colleges of Applied Arts and Technology

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### PART I

#### GENERAL

1. In this Act and in the Schedules,

Interpre-  
tation

- (a) "agreement" means a written collective agreement between the Council on behalf of the employers and an employee organization covering terms and conditions of employment negotiable under this Act;
- (b) "bargaining unit" means the academic staff bargaining unit of employees or the support staff bargaining unit of employees set out in Schedules 1 and 2;
- (c) "board" means a board of governors of a college of applied arts and technology;
- (d) "Commission" means the College Relations Commission established under this Act;
- (e) "Council" means the Ontario Council of Regents for Colleges of Applied Arts and Technology;
- (f) "employee" means a person employed by a board of governors of a college of applied arts and technology in a position or classification that is within the academic staff bargaining unit or the support staff bargaining unit set out in Schedules 1 and 2;
- (g) "employee organization" means an organization of employees formed for the purpose of regulating relations between the employer and employees under

this Act, but does not include such an organization of employees that discriminates against any employee because of age, sex, race, national origin, colour or religion;

- (h) “employer” means a board of governors of a college of applied arts and technology;
- (i) “lock-out” means the suspension of employment of, or the refusal to assign work to employees by a board with the view of compelling the cessation of a strike or preventing the resumption of a strike or with the view to inducing or persuading the employee organization that represents the employees to enter into or renew an agreement;
- (j) “matters in dispute” means matters in dispute that are within the scope of negotiations under this Act;
- (k) “party” means the Council or an employee organization;
- (l) “person employed in a managerial or confidential capacity” means a person who,
  - (i) is involved in the formulation of organization objectives and policy in relation to the development and administration of programs of the employer or in the formulation of budgets of the employer,
  - (ii) spends a significant portion of his time in the supervision of employees,
  - (iii) is required by reason of his duties or responsibilities to deal formally on behalf of the employer with a grievance of an employee,
  - (iv) is employed in a position confidential to any person described in subclause i, ii or iii,
  - (v) is employed in a confidential capacity in matters relating to employee relations,
  - (vi) is not otherwise described in subclauses i to v but who, in the opinion of the Ontario Labour Relations Board should not be included in a bargaining unit by reason of his duties and responsibilities to the employer;

(m) "strike" includes a cessation of work, a refusal to work or to continue to work by employees in combination or in concert or in accordance with a common understanding or any concerted action or activity on the part of employees designed to curtail, restrict, limit or interfere with the operation or functioning of a college or colleges including, without limiting the foregoing,

(i) withdrawal of services,

(ii) slow-down in the performance of duties,

(iii) discontinuance of the cocurricular or extra-curricular programs in a college or colleges,

(iv) the giving of notice to terminate employment ;

(n) "vote by secret ballot" means a vote by ballots cast in such a manner that a person expressing his choice cannot be identified with the choice expressed.

**2.—**(1) This Act applies to all collective negotiations concerning terms and conditions of employment of employees. Application of Act

(2) No collective negotiations shall be carried on except in accordance with this Act. Negotiations to be in accordance with Act

(3) The Council shall have the exclusive responsibility for all negotiations on behalf of employers conducted under this Act. Council to act on behalf of employers

**3.—**(1) Where negotiations for the renewal of the agreement covering the academic staff bargaining unit are being carried on between the Council and an employee organization immediately before this Act comes into force, the Council and the employee organization shall continue the negotiations in good faith with the view to making an agreement in accordance with this Act and written notice of desire to negotiate with the view to making an agreement shall be deemed to have been given pursuant to this Act. Transitional provision

(2) In the case of the agreement covering the support staff bargaining unit that expires on the 31st day of March, 1976, the employee organization may give written notice to the Council or the Council may give written notice to the employee organization in accordance with the terms of the agreement. Idem, notice

Where notice  
not given

(3) Where the notice mentioned in subsection 2 is not given within the period of time provided therein, the agreement mentioned in subsection 2 shall be deemed to be renewed and to continue in force for a further period of one year from the day on which it would have expired.

## PART II

### NEGOTIATIONS

Subject-  
matter of  
negotiations

4. Negotiations shall be carried out in respect of any term or condition of employment put forward by either party, except for superannuation.

Notice of  
desire to  
negotiate for  
renewal of  
agreement

5.—(1) Either party to an agreement may give written notice to the other party within the month of January in the year in which the agreement expires of its desire to negotiate with the view to the renewal, with or without modification of the agreement then in operation.

Where notice  
not given of  
desire to  
negotiate  
renewal of  
agreement

(2) Where an agreement exists and no party to the agreement gives notice in accordance with this Act of its desire to negotiate with the view to the renewal of the agreement, the agreement continues in operation and is renewed from year to year, with each yearly period expiring on the 31st day of August, until the year, if any, in which notice is given in accordance with this Act of desire to negotiate with the view to the renewal, with or without modification, of the agreement.

Obligation  
to negotiate

6. The parties shall meet within thirty days from the giving of the notice under section 5 or 71 and they shall negotiate in good faith and make every reasonable effort to make an agreement or to renew the agreement, as the case requires.

Parties may  
choose  
procedures to  
reach  
agreement

7.—(1) The parties, at any time during negotiations to make or renew an agreement, may agree to,

- (a) request the Commission to assign a person to assist the parties to make or renew the agreement;
- (b) request the Commission to appoint a fact finder as provided in Part III; or
- (c) refer all matters remaining in dispute between them to,
  - (i) an arbitrator or a board of arbitration for determination as provided in Part IV, or



- (ii) a selector for determination as provided in Part V.

(2) The agreement to refer all matters remaining in dispute between them to an arbitrator or board of arbitration or a selector shall be deemed to include a provision that there will be no strike or lock-out.

Effect of  
choice of  
procedure

8. The Commission may, in the exercise of its own discretion, at any time assign a person to assist the parties to make or renew an agreement.

Where  
Commission  
may assign  
person to  
assist parties

### PART III

#### FACT FINDING

9. The Commission shall appoint a person as a fact finder during negotiations to make or renew an agreement if the parties have not referred all matters remaining in dispute between them to an arbitrator or board of arbitrators as provided in Part IV or a selector as provided in Part V and,

Appointment  
of fact  
finder

- (a) the Commission is of the opinion that an impasse has been reached in the negotiations;
- (b) one or both of the parties gives notice to the Commission that an impasse has been reached in the negotiations and requests the appointment of a fact finder, and the Commission approves the request; or
- (c) the agreement that was in operation in respect of the parties expires during negotiations between the parties to make or renew an agreement, and fact finding has not taken place as provided in this Part.

10. The parties to negotiations to make or renew an agreement may, notwithstanding the appointment of a fact finder,

Parties  
may proceed  
to make  
agreement  
or to  
arbitration  
or selection  
procedure

- (a) make or renew the agreement; or
- (b) agree to refer all matters remaining in dispute between them to,
  - (i) an arbitrator or a board of arbitration for determination as provided in Part IV, or
  - (ii) a selector for determination as provided in Part V,

and upon the giving of notice to the Commission by the parties that they have so acted, the appointment of the fact finder is terminated.

Effect of  
choice of  
procedure

**11.** The agreement to refer all matters remaining in dispute between them to an arbitrator or board of arbitration or a selector shall be deemed to include a provision that there will be no strike or lock-out.

Persons  
prohibited as  
fact finder

**12.** No person shall be appointed a fact finder who has a direct pecuniary interest in the matters coming before him or who is acting or has, within the period of six months immediately before the date of his appointment, acted as solicitor, counsel, negotiator, advisor or agent of either of the parties or a board.

Vacancy

**13.** Where a fact finder ceases to act by reason of withdrawal, death or otherwise before submitting his report to the Commission, the Commission shall appoint another person in his stead and such person shall commence the work of the fact finder *de novo*.

Notice of  
appointment  
of fact  
finder

**14.** Where the Commission appoints a fact finder, the Commission shall give written notice to each of the parties of the appointment of and the name and address of the fact finder.

Notice of  
matters  
agreed upon  
and matters  
in dispute

**15.—(1)** Within seven days after the receipt of notice from the Commission of the appointment of the fact finder, each party shall give written notice to the fact finder and to the other party setting out all the matters that the parties have agreed upon for inclusion in an agreement and all the matters remaining in dispute between the parties.

Where  
notice  
not given

**(2)** Where a party fails to comply with subsection 1, the fact finder may make a determination of the matters mentioned in subsection 1 and may then proceed pursuant to this Part.

Duty of  
fact finder

**16.—(1)** It is the duty of a fact finder to confer with the parties and to inquire into, ascertain and make a report setting out the matters agreed upon by the parties for inclusion in an agreement and the matters remaining in dispute between the parties.

What report  
may contain

**(2)** A fact finder may, in his report, include his findings in respect of any matter that he considers relevant to the making of an agreement between the parties and recommend terms of settlement of the matters remaining in dispute between the parties.

**17.** In inquiring into and ascertaining the matters remaining in dispute between the parties, the fact finder may inquire into and consider any matter that the fact finder considers relevant to the making of an agreement between the parties including, without limiting the foregoing, Matters that may be considered by fact finder

- (a) the conditions of employment in comparable occupations outside the teaching sector;
- (b) the effect of geographic or other local factors on the terms and conditions of employment;
- (c) the cost to the employers of the proposal of either party;
- (d) the interests and welfare of the public.

**18.** The fact finder shall determine his own procedure and, where the fact finder requests information from a party, the party shall, acting in good faith, provide the fact finder with full and complete information. Procedure of fact finder

**19.** The fact finder shall submit his report to the Commission within thirty days after the date of his appointment or within such longer period of time as the Commission may direct and the Commission shall forthwith give a copy of the report to each of the parties. Submission of report of fact finder

**20.** The report of the fact finder is not binding on the parties but is made for the advice and guidance of the parties and upon receipt of the report the parties shall endeavour, in good faith, to make an agreement or to renew the agreement, as the case may be. Report not binding

**21.** Where the Commission has given a copy of the report of the fact finder to each of the parties and, Assignment of assistance

- (a) the Commission is of the opinion that the parties will or are likely to benefit from assistance; or
- (b) one or both of the parties requests assistance from the Commission and the Commission is of the opinion that the parties will or are likely to benefit from assistance,

the Commission may assign a person to assist the parties to make or renew, as the case may be, the agreement.

**22.—(1)** If the parties make or renew, as the case may be, an agreement within fifteen days after the Commission has Where report confidential

given a copy of the report to each of the parties, the report shall not be made public by the Commission, either of the parties or by any person.

Release of  
report

(2) If the parties do not make an agreement, or renew the agreement, as the case may be, within the period of time specified in subsection 1, the Commission shall make public the report of the fact finder.

Parties  
may agree  
to refer  
matters in  
dispute

**23.**—(1) If the parties do not make or renew, as the case may be, an agreement within fifteen days after the Commission has given a copy of the report of the fact finder to each of the parties, the parties may agree to refer all matters in dispute between them that may be provided for in an agreement to,

(a) an arbitrator or a board of arbitration for determination as provided in Part IV; or

(b) a selector for determination as provided in Part V.

Effect of  
choice of  
procedure

(2) The agreement to refer all matters remaining in dispute between them to an arbitrator or board of arbitration or a selector shall be deemed to include a provision that there will be no strike or lock-out.

## PART IV

### VOLUNTARY BINDING ARBITRATION

Parties to  
give notice to  
Commission  
where  
arbitration  
agreed  
upon

**24.**—(1) Where the parties agree to refer all matters remaining in dispute between them to an arbitrator or a board of arbitration, the parties shall jointly give written notice to the Commission that they have so agreed and the notice shall state,

(a) that the parties agree to refer the matters to an arbitrator and,

(i) the date of appointment and the name and address of the arbitrator, or

(ii) that the parties have not appointed the arbitrator and that the parties request the Commission to appoint the arbitrator; or

(b) that the parties agree to refer the matters to a board of arbitration and,

- (i) that the parties have each appointed a person as a member of the board of arbitration and shall set out the names and addresses of the two members so appointed, or
- (ii) that both of the parties or one of them, as the case may be, has not appointed a person as a member of the board of arbitration and that the parties request the Commission to appoint the members or member, as the case may be, of the board.

(2) Where the parties, in the notice mentioned in subsection 1, request the Commission to appoint the arbitrator or the members or one of the members of the board of arbitration, the Commission shall make the appointment or appointments and shall forthwith thereafter give notice thereof to the parties setting out the name and address of the appointee or the names and addresses of the appointees, as the case may be, together with the date of the appointment or appointments.

Where appointments made by Commission

(3) Where the parties agree to refer all matters remaining in dispute between them to a board of arbitration, the two members of the board of arbitration shall, within ten days after the giving of notice of their appointment by the parties or by the Commission, as the case may be, appoint a third person to be chairman of the board of arbitration and the chairman shall forthwith give written notice to the Commission of his appointment.

Appointment of chairman by members

(4) Where the two members of the board of arbitration are unable to appoint or to agree on the appointment of the chairman of the board of arbitration within the period of time set out in subsection 3, the Commission shall appoint the chairman and shall give notice of the appointment to the two members and to the parties and the notice shall set out the name and address of the person appointed and the date of the appointment.

Where Commission to appoint chairman

**25.** No person shall be appointed an arbitrator or member or chairman of a board of arbitration who has a direct pecuniary interest in the matters coming before him or who is acting or has, within the period of six months immediately before the date of his appointment, acted as solicitor, counsel, negotiator, advisor or agent of either of the parties or a board.

Persons prohibited as arbitrator or members or chairman of board of arbitration

**26.**—(1) Where a member of a board of arbitration is unable to enter on or to carry on his duties so as to enable

Vacancy



a decision to be rendered within the period of time required by subsection 2 or ceases to act by reason of withdrawal or death before the board of arbitration has completed its work, a replacement shall be appointed by the party that appointed the member, or failing such appointment, by the Commission and the board of arbitration shall continue to function as if such member were a member of the board of arbitration from the beginning.

Where  
chairman  
unable to act

(2) Where the chairman of a board of arbitration is unable to enter on or to carry on his duties so as to enable a decision to be rendered within sixty days after his appointment or within such longer period of time as may be provided in writing by the board of arbitration and consented to by the Commission or ceases to act by reason of withdrawal or death, the Commission shall give notice thereof to the members of the board of arbitration who shall, within seven days of the giving of the notice, appoint a person to be the chairman and if the appointment is not so made by the members it shall be made by the Commission, and after the chairman is appointed the arbitration shall begin *de novo*.

Where  
arbitrator  
unable to  
act

(3) Where an arbitrator is unable to enter on or to carry on his duties so as to enable a decision to be rendered within sixty days after his appointment or within such longer period of time as may be provided in writing by the arbitrator and consented to by the Commission or ceases to act by reason of withdrawal or death, the Commission shall give notice thereof to the parties who shall, within seven days of the giving of the notice, appoint a person to be the arbitrator and if the appointment is not so made it shall be made by the Commission and after the arbitrator is appointed the arbitration shall begin *de novo*.

Notice of  
matters  
agreed upon  
and matters  
in dispute

**27.** Within seven days after the giving of notice that the arbitrator or the chairman of the board of arbitration, as the case may be, has been appointed, each party shall give written notice to the arbitrator or chairman and to the other party setting out all the matters that the parties have agreed upon for inclusion in an agreement and all the matters remaining in dispute between the parties.

Procedure

**28.—**(1) The arbitrator or board of arbitration shall determine his or its own procedure but shall give full opportunity to the parties to present their evidence and make their submissions.

Idem

(2) If the members of a board of arbitration are unable to agree among themselves on matters of procedure or as to the admissibility of evidence, the decision of the chairman governs.



(3) The decision of a majority of a board of arbitration <sup>Decision</sup> is the decision of the board, but if there is no majority, the decision of the chairman is the decision of the board.

**29.**—(1) The arbitrator or board of arbitration has power, <sup>Powers of arbitrator or board of arbitration</sup>

(a) to summon any person,

(i) to give oral or written evidence on oath or affirmation to the arbitrator or board of arbitration, or

(ii) to produce in evidence for the arbitrator or board of arbitration such documents and other things as the arbitrator or board of arbitration may specify;

(b) to administer oaths and affirmations;

(c) to accept for or exclude from consideration any oral testimony, document or other thing, whether admissible in a court of law or not.

(2) Where any person without lawful excuse,

(a) on being duly summoned under subsection 1 as a witness before the arbitrator or board of arbitration, as the case may be, makes default in so attending;

<sup>Stated case for contempt for failure to attend, etc.</sup>

(b) being in attendance as a witness before the arbitrator or board of arbitration, as the case may be, refuses to take an oath or to make an affirmation legally required by the arbitrator or board of arbitration to be taken or made, or to produce any document or thing in his power or control legally required by the arbitrator or board of arbitration to be produced to him or it, or to answer any question to which the arbitrator or board of arbitration may legally require an answer; or

(c) does any other thing that would, if the arbitrator or board of arbitration had been a court of law having power to commit for contempt, have been contempt of that court,

the arbitrator or board of arbitration may state a case to the Divisional Court setting out the facts and that court may, on the application of the arbitrator or board of arbitration, inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person

and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court.

Duty of  
arbitrator  
or board of  
arbitration

**30.**—(1) The arbitrator or board of arbitration shall inquire into, consider and decide on all matters remaining in dispute between the parties.

Matters that  
may be  
considered by  
arbitrator or  
board of  
arbitration

(2) In the conduct of proceedings before him or it and in reaching a decision in respect of a matter in dispute, the arbitrator or board of arbitration may inquire into and consider any matter that the arbitrator or board of arbitration considers relevant to the making of an agreement between the parties.

Time for  
report of  
arbitrator or  
board of  
arbitration

**31.**—(1) The arbitrator or board of arbitration shall complete the consideration of all matters in dispute between the parties and shall report in writing his or its decision on the matters to the parties and to the Commission within sixty days after the giving of notice of the appointment of the arbitrator or of the appointment of the chairman of the board of arbitration, as the case may be, or within such longer period of time as may be provided in writing by the arbitrator or board of arbitration and consented to by the Commission.

Effect of  
decision

(2) The decision of the arbitrator or board of arbitration is binding upon the parties and they shall comply in good faith with the decision.

Reference  
back to  
arbitrator  
or board of  
arbitration

(3) The arbitrator or board of arbitration may, upon application by either party to a decision within ten days after the release of the decision, subject to affording the parties the opportunity to make representations thereupon to the arbitrator or board of arbitration amend, alter or vary the decision where it is shown to the satisfaction of the arbitrator or board of arbitration that it has failed to deal with any matter in dispute referred to it or that an error is apparent on the face of the decision.

Preparation  
and  
execution of  
documents

**32.**—(1) Within thirty days after receipt by the parties of the report of the arbitrator or board of arbitration, as the case may be, the parties shall prepare a document giving effect to all matters agreed upon by the parties and the decision of the arbitrator or board of arbitration and shall execute the document and thereupon it constitutes an agreement.

Where  
arbitrator  
or board of  
arbitration  
to prepare  
document

(2) If the parties fail to execute the document within the period of time mentioned in subsection 1, the arbitrator or

board of arbitration, as the case may be, shall prepare the document and submit it to the parties and shall fix the time within which and the place where the parties shall execute the document.

(3) If the parties or either of them fail to execute the document within the time fixed by the arbitrator or the board of arbitration, the document shall be deemed to be in effect as though it had been executed by the parties and the document thereupon constitutes an agreement. Failure to execute document

## PART V

### FINAL OFFER SELECTION

**33.**—(1) Where the parties agree to refer all matters remaining in dispute between them to a selector, the parties shall jointly give written notice to the Commission that they have so agreed and the notice shall state that the parties agree to refer the matters to a selector and, Parties to give notice to Commission where selection agreed upon

- (a) the date of appointment and the name and address of the selector; or
- (b) that the parties have not appointed the selector and that the parties request the Commission to appoint the selector.

(2) The parties shall, together with the notice mentioned in subsection 1, give to the Commission a written statement signed by the parties setting out that neither party will withdraw from the proceedings after the final offers of the parties have been submitted to the selector and that the decision of the selector will be accepted by the parties as binding upon them. Statement by parties

(3) Where the parties request the Commission to appoint the selector, the Commission shall make the appointment and give notice of the appointment of the selector to the parties and the notice shall set out the name and address of the person appointed and the date of the appointment. Where Commission appoints selector

**34.** No person shall be appointed a selector who has a direct pecuniary interest in the matters coming before him or who is acting or has, within the period of six months immediately before the date of his appointment, acted as solicitor, counsel, negotiator, advisor or agent of either of the parties or a board. Persons prohibited as selector

Selector  
unable to  
act

**35.** Where a selector is unable to enter on or to carry on his duties so as to enable a decision to be rendered within the time specified by this Act or such longer period of time as may be provided in writing by the selector and consented to by the Commission or ceases to act by reason of withdrawal or death, the Commission shall give notice thereof to the parties who shall, within seven days of the giving of the notice, appoint a person to be the selector, and if the appointment is not so made by the parties it shall be made by the Commission, and after the selector is appointed, the selection procedure shall begin *de novo*.

Notice of  
matters  
agreed upon  
and matters  
in dispute

**36.** Within seven days after the giving of notice that the selector has been appointed, the parties shall jointly give written notice to the selector setting out all the matters that the parties have agreed upon for inclusion in an agreement and all the matters remaining in dispute between the parties.

Notice of  
final offer

**37.** Within fifteen days after the giving of notice that the selector has been appointed, each party shall give written notice to the selector setting out the final offer of the party on all the matters remaining in dispute between the parties and may submit with the notice a written statement in support of the final offer set out in the notice.

Final offer of  
opposite  
party

**38.** Upon receiving the notices of the parties setting out the final offer of each party, the selector shall forthwith give to each party a copy of the notice setting out the final offer of the opposite party on all the matters remaining in dispute between the parties together with a copy of the statement, if any, of the opposite party submitted in support of the final offer of the opposite party.

Written  
response

**39.** Each party may, within ten days after being given a copy of the final offer and supporting statement, if any, of the opposite party, give to the selector a written reply and the selector shall forthwith give a copy of the reply of each party to the opposite party.

Hearing

**40.** Within fifteen days after each party has been given a copy of the final offer and supporting statement, if any, of the opposite party, or within such longer period of time as may be provided in writing by the selector and consented to by the Commission, the selector shall hold a hearing in respect of the matters remaining in dispute between the parties and may, before making a selection, hold a further hearing or hearings.



**41.** The parties may agree to dispense with a hearing by the selector and in such case may jointly give written notice to the selector that they have so agreed, and the selector, upon receipt of the notice, shall not hold a hearing but shall proceed to his decision. Parties may dispense with hearing

**42.**—(1) The selector shall determine his own procedure but, in holding a hearing, shall give full opportunity to the parties to present their evidence and make their submissions. Procedure

(2) The selector has power, Powers of selector

(a) to summon any person,

(i) to give oral or written evidence on oath or affirmation to the selector, or

(ii) to produce in evidence for the selector such documents and other things as the selector may specify;

(b) to administer oaths and affirmations;

(c) to accept for or exclude from consideration any oral testimony, document or other thing, whether admissible in a court of law or not.

**43.** The selector shall, within fifteen days after the conclusion of the hearing or hearings or within fifteen days after the giving of the notice by the parties that they have agreed to dispense with a hearing, as the case may be, or within such longer period of time as may be provided in writing by the selector and consented to by the Commission, make a decision selecting all of one of the final offers on all matters remaining in dispute between the parties given to the selector by one or the other of the parties. Selection of final offer

**44.** The decision of the selector is binding upon the parties and they shall comply in good faith with the decision. Effect of decision

**45.**—(1) Within thirty days after receipt of notice of the decision of the selector, the parties shall prepare a document giving effect to all matters agreed upon by the parties and the decision of the selector and shall execute the document and thereupon it constitutes an agreement. Preparation and execution of document by parties

(2) If the parties fail to execute the document within the period of time mentioned in subsection 1, the selector shall prepare the document and submit it to the parties and shall fix the time within which and the place where the parties shall execute the document. Where selector to prepare document

Failure to  
execute  
document

(3) If the parties or either of them fail to execute the document within the time fixed by the selector, the document shall be deemed to be in effect as though it had been executed by the parties and the document thereupon constitutes an agreement.

## PART VI

### AGREEMENTS

Term of  
agreement

**46.**—(1) Every agreement shall,

- (a) provide for a term of operation of not less than one year;
- (b) state that it is effective on and after the 1st day of September in the year in which it is to come into operation; and
- (c) state that it expires on the 31st day of August in the year in which it ceases to operate.

Exception

(2) Notwithstanding clause *b* of subsection 1, an agreement covering the support staff bargaining unit that expires on the 31st day of March, 1976, may be renewed effective the 1st day of April, 1976.

Arbitration  
provision

**47.**—(1) Every agreement shall provide for the final and binding settlement by arbitration of all differences between an employer and the employee organization arising from the interpretation, application, administration or alleged contravention of the agreement including any question as to whether a matter is arbitrable.

Idem

(2) Unless an agreement otherwise provides for the final and binding settlement of all differences between an employer and the employee organization arising from the interpretation, application, administration or alleged contravention of the agreement, the agreement is deemed to include the following provision:

Where a difference arises between an employer and the employee organization relating to the interpretation, application or administration of this agreement, or where an allegation is made that this agreement has been contravened, including any question as to whether the matter is arbitrable, either the employer or the employee organization may, after exhausting any grievance procedure established by this agreement, notify the other in writing of its desire to submit the difference or allegation to arbitration and the notice shall contain



the name of its appointee to an arbitration board. The recipient of the notice shall within five days inform the other either that it accepts the other's appointee as a single arbitrator or inform the other of the name of its appointee to the arbitration board. Where two appointees are so selected they shall, within five days of the appointment of the second of them, appoint a third person who shall be the chairman. If the recipient of the notice fails to appoint an arbitrator or if the two appointees fail to agree upon a chairman within the time limited, the appointment shall be made by the Commission upon the request of either the employer or the employee organization. The single arbitrator or the arbitration board, as the case may be, shall hear and determine the difference or allegation and shall issue a decision and the decision is final and binding upon the employer and the employee organization and upon any employee affected by it. The decision of a majority is the decision of the arbitration board, but, if there is no majority, the decision of the chairman governs. The arbitrator or arbitration board, as the case may be, shall not by his or its decision add to, delete from, modify or otherwise amend the provisions of this agreement.

(3) An arbitrator or chairman of an arbitration board, as the case may be, referred to in this section, has the same powers as an arbitrator or board of arbitration under subsection 1 of section 29. Powers of arbitrator or board of arbitration

(4) Where an arbitrator or board of arbitration referred to in this section determines that a disciplinary penalty or dismissal of an employee is excessive, it may substitute such other penalty for the discipline or dismissal as it considers just and reasonable in all the circumstances. Penalty where employee disciplined, etc.

(5) The decision of an arbitrator or of an arbitration board is final and binding upon the employer, employee organization and upon the employees covered by the agreement who are affected by the decision, and such employer, employee organization and employees shall do or refrain from doing anything required of them by the decision. Decision

(6) Where an employer, employee organization or an employee has failed to comply with any of the terms of the decision of an arbitrator or arbitration board, any employer, employee organization or employee affected by the decision may, after the expiration of fourteen days from the date of the release of the decision or the date provided in the decision for compliance, whichever is later, file in the office of the Enforcement

Registrar of the Supreme Court a copy of the decision, exclusive of the reasons therefor, in the prescribed form, whereupon the decision shall be entered in the same way as a judgment or order of that court and is enforceable as such.

Remuneration and expenses

(7) The employer and employee organization shall each pay one-half the remuneration and expenses of the arbitrator or chairman of the board of arbitration referred to in this section and shall pay the remuneration and expenses of the person it appoints to such an arbitration board.

Application of R.S.O. 1970, c. 25, 1971, c. 47

(8) *The Arbitrations Act* and *The Statutory Powers Procedure Act, 1971* do not apply to arbitration proceedings under this section.

Provision against strikes and lock-outs

**48.**—(1) Every agreement shall provide that there will be no strike or lock-out during the term of the agreement or of any renewal of the agreement.

Statutory provision

(2) If an agreement does not contain the provision mentioned in subsection 1, the agreement shall be deemed to contain the following provision:

“There shall be no strike or lock-out during the term of this agreement or of any renewal of this agreement”.

Agreement not to require legislative implementation

**49.**—(1) No agreement, decision of an arbitrator, board of arbitration or selector shall contain any term that would require either directly or indirectly for its implementation the enactment or amendment of legislation.

Conflict

(2) Where a conflict appears between any provision of an agreement and any provision of any legislation, the provision of the legislation prevails.

Where agreement reached

**50.** Where the parties agree on all the matters to be included in an agreement, whether during or at the conclusion of negotiations or other proceedings under this Act, they shall prepare a document incorporating all the matters agreed upon and shall execute the document and the document thereupon constitutes an agreement.

Notice to Commission of execution of agreement

**51.** Upon the execution of an agreement, each party to the agreement shall forthwith give written notice thereof, together with a copy of the agreement, to the Commission.

Binding effect of agreement

**52.**—(1) An agreement is binding upon the Council, the employers and the employee organization that is a party to it and upon the employees in the bargaining unit covered by the agreement.

(2) Subsection 1 applies to the agreement covering the academic staff bargaining unit and the agreement covering the support staff bargaining unit in operation upon the coming into force of this Act. Idem

**53.** Every agreement shall be deemed to provide that the employee organization that is a party thereto is recognized as the exclusive bargaining agent for the bargaining unit to which the agreement applies. Recognition provision

**54.**—(1) The parties to an agreement may provide for the payment by the employees of dues or contributions to the employee organization. Payment of dues to employee organization

(2) Where the Ontario Labour Relations Board is satisfied that an employee because of his religious convictions or belief objects to paying dues or contributions to an employee organization, the Ontario Labour Relations Board shall order that the provisions of the agreement pertaining thereto do not apply to such employee and that the employee is not required to pay dues or contributions to the employee organization, provided that amounts equivalent thereto are remitted by the employer to a charitable organization and failing such agreement then to such charitable organization registered as such under Part I of the *Income Tax Act* (Canada) as may be designated by the Ontario Labour Relations Board. Where objection to dues because of religious belief

(3) No agreement shall contain a provision which would require, as a condition of employment, membership in the employee organization. Requiring membership in employee organization prohibited

**55.**—(1) Where notice has been given by either party to an agreement under section 5, except as altered by an agreement in writing by the parties, the terms and provisions of the agreement then in operation shall continue to operate until there is a right to strike or lock-out as provided in this Act. Working conditions may not be altered

(2) Where notice has been given by the employee organization under section 71, the conditions then in effect applicable to or binding upon the Council, the employer, the employee organization or the employees which are subject to negotiations within the meaning of this Act shall not be altered without the consent of the Council, the employer, the employee organization or the employees, as the case may be, until there is a right to strike or lock-out as provided in this Act. Idem

## PART VII

## COLLEGE RELATIONS COMMISSION

Commission  
established

**56.**—(1) There shall be a commission to be known as the College Relations Commission composed of five persons who shall be appointed by the Lieutenant Governor in Council.

Chairman  
and vice-  
chairman

(2) The Lieutenant Governor in Council shall designate a chairman and a vice-chairman from among the members of the Commission.

Acting  
chairman

(3) In the case of the absence or inability to act of the chairman or of there being a vacancy in the office of the chairman, the vice-chairman shall act as and have all the powers of the chairman, and, in the absence of the chairman and vice-chairman from any meeting of the Commission, the members of the Commission present at the meeting shall appoint an acting chairman who shall act as and have all the powers of the chairman during the meeting.

Term of  
office

(4) The members of the Commission shall be appointed for a term of one, two or three years so that as nearly as possible one-third of the members shall retire each year.

Vacancy

(5) Every vacancy on the Commission caused by the death, resignation or incapacity of a member may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member.

Re-  
appointment

(6) Each of the members of the Commission is eligible for reappointment upon the expiration of his term of office.

Quorum

(7) Three members of the Commission constitute a quorum and are sufficient for the exercise of all the authority of the Commission.

Exercising  
powers

(8) The powers of the Commission shall be exercised by resolution and the Commission may pass resolutions governing the calling of and the proceedings at meetings and specifying the powers and duties of employees of the Commission and generally dealing with the carrying out of its duties.

Remunera-  
tion

(9) The members of the Commission shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council.



(10) Subject to the approval of the Lieutenant Governor Officers, staff, etc. in Council, the Commission may establish job classifications, salary ranges and the terms and conditions of employment for its employees.

(11) *The Public Service Superannuation Act* applies to the R.S.O. 1970, c. 387, applicable permanent employees of the Commission as though the Commission had been designated by the Lieutenant Governor in Council under section 27 of that Act.

(12) The Commission may engage persons other than Professional and other assistance those employed pursuant to subsection 10 to provide professional, technical or other assistance to or on behalf of the Commission, and may prescribe the terms of engagement and provide for payment of the remuneration and expenses of such persons.

**57.—**(1) It is the duty of the Commission, Duties of Commission

- (a) to carry out the duties imposed on it by this Act and such other functions as may, in the opinion of the Commission, be necessary to carry out the intent and purpose of this Act;
- (b) to maintain an awareness of negotiations between the parties;
- (c) to compile statistical information on the supply, distribution, professional activities and salaries of employees;
- (d) to provide such assistance to parties as may facilitate the making or renewing of agreements;
- (e) to select and, where necessary, to train persons who may act as mediators, fact finders, arbitrators or selectors;
- (f) to determine, at the request of either party or in the exercise of its discretion, whether or not either of the parties is or was negotiating in good faith and making every reasonable effort to make or renew an agreement;
- (g) to determine the manner of conducting and to supervise votes by secret ballot pursuant to this Act; and
- (h) to advise the Lieutenant Governor in Council when, in the opinion of the Commission, the continuance

of a strike or lock-out will place in jeopardy the successful completion of courses of study by the students affected by the strike or lock-out.

**Provision of information** (2) The Commission may request an employer to provide information necessary to compile the statistical information referred to in clause *c* of subsection 1 and an employer shall comply with such a request.

**Testimony by member of Commission** **58.** No member of the Commission shall be required to give testimony in any proceeding under this Act or before a court or tribunal with regard to information obtained by him in the discharge of his duties as a member of the Commission.

**Moneys** **59.** The moneys required for the purposes of the Commission shall, until the 31st day of March, 1976, and, subject to the approval of the Lieutenant Governor in Council, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

## PART VIII

### STRIKES AND LOCK-OUTS

**Strike** **60.—(1)** No employee shall strike unless,

- (a) there is no agreement in operation between the Council and the employee organization that represents the employee;
- (b) notice of desire to negotiate to make or renew an agreement has been given to the Council by the employee organization that represents the employee and the employee organization has negotiated in good faith and made every reasonable effort to make or renew an agreement;
- (c) all the matters remaining in dispute between the Council and the employee organization that represents the employee have been referred to a fact finder and thirty days have elapsed after the Commission has given a copy of the report of the fact finder to each of the parties;
- (d) the offer of the Council in respect of all matters remaining in dispute between the parties last received by the employee organization that represents the employee is submitted to and rejected by the



employees in the bargaining unit by a vote by secret ballot conducted under the supervision of and in the manner determined by the Commission;

- (e) the employees in the bargaining unit have voted, not earlier than the vote referred to in clause *d* and not before the end of the thirty-day period referred to in clause *c*, in favour of a strike by a vote by secret ballot conducted under the supervision of and in the manner determined by the Commission; and
- (f) after a vote in favour of a strike in accordance with clause *e*, the employee organization that represents the employee gives the Council and the employer written notice of the strike and of the date on which the strike will commence at least five days before the commencement of the strike.

(2) Where an agreement is in operation upon the coming into force of this Act pursuant to section 52, no employee shall strike unless the requirements of subsection 1 are complied with. Interim provision

(3) Where the employee organization gives notice of a lawful strike, all employees in the bargaining unit concerned shall be deemed to be taking part in the strike from the date on which the strike is to commence, as set out in the written notice, to the date on which the employee organization gives written notice to the Council and the employer that the strike is ended, and no employee shall be paid salary or benefits during such period. Where employees deemed to take part in strike

(4) Where a strike is ended without an agreement coming into effect, no employee shall resume striking or engage in a new strike except after the provisions of clauses *d*, *e* and *f* of subsection 1 have again been complied with in respect of such resumption or new strike. Resumption of strike

**61.**—(1) No employee organization shall call or authorize or threaten to call or authorize an unlawful strike. Unlawful strike

(2) No officer, official, or agent of an employee organization shall counsel, procure, support or encourage an unlawful strike or threaten an unlawful strike. Idem

**62.**—(1) The Council shall not and no employer shall call or authorize or threaten to call or authorize an unlawful lock-out. Unlawful lock-out

Idem

(2) No officer, official, or agent of the Council or of an employer shall counsel, procure, support or encourage an unlawful lock-out or threaten an unlawful lock-out.

Declaration  
of unlawful  
strike

**63.**—(1) Where the employee organization calls or authorizes a strike or employees engage in a strike that the Council or an employer alleges is unlawful, the Council or the employer may apply to the Ontario Labour Relations Board for a declaration that the strike is unlawful, and the Board may make the declaration.

Declaration  
of unlawful  
lock-out

(2) Where the Council or employer calls or authorizes a lock-out of employees that the employee organization concerned alleges is unlawful, such employee organization may apply to the Ontario Labour Relations Board for a declaration that the lock-out is unlawful, and the Board may make the declaration.

Lock-out

**64.**—(1) No employer shall lock-out employees unless,

- (a) there is no agreement in operation between the Council and the employee organization that represents the employees;
- (b) notice of desire to negotiate or make or renew an agreement has been given by the Council to the employee organization that represents the employees or by the employee organization that represents the employees to the Council and the Council has negotiated in good faith and made every reasonable effort to make or renew an agreement;
- (c) all the matters remaining in dispute between the Council and the employee organization that represents the employees have been referred to a fact finder and thirty days have elapsed after the Commission has given a copy of the report of the fact finder to each of the parties;
- (d) the Council on behalf of all employers gives the employee organization that represents the employees written notice of the lock-out and of the date on which the lock-out will commence at least five days before the commencement of the lock-out.

Closing  
of college

(2) Where a lawful strike is declared or authorized or employees engage in a lawful strike, the employer may, with the approval of the Council, close a college or any part thereof where the employer is of the opinion that,

- (a) the safety of students enrolled in the college may be endangered;
- (b) the college buildings or the equipment or supplies therein may not be adequately protected during the strike; or
- (c) the strike will substantially interfere with the operation of the college,

and may keep the college or any part thereof closed until the employee organization that called or authorized the strike or that represents the employees engaged in the strike gives written notice to the Council and the employer that the strike is ended.

(3) Where the Council gives notice of a lawful lock-out, all employers shall be deemed to be taking part in the lock-out from the date on which the lock-out is to commence set out in the written notice and an employee in the bargaining unit concerned is not entitled to be paid his salary and benefits in respect of the days on which he is prevented from performing his duty as the result of action by an employer pursuant to subsection 1 or 2. Where lock-out deemed

**65.** For the purposes of this Act, no person shall be deemed to have ceased to be an employee by reason only of his ceasing to work for his employer as the result of a lawful lock-out or lawful strike or by reason only of his being dismissed by his employer contrary to this Act or to a collective agreement. Continuation of employment

## PART IX

### REPRESENTATION RIGHTS

**66.** Every person is free to join an employee organization of his own choice and to participate in its lawful activities. Membership in employee organization

**67.—(1)** Where an agreement is for a term of not more than three years, an employee organization may apply to the Ontario Labour Relations Board for bargaining rights as bargaining agent of the employees in the bargaining unit only during the month of December immediately prior to the termination date of the agreement. Application for bargaining rights

(2) Where an agreement is for a term of more than three years, an employee organization may apply to the Ontario Idem

Labour Relations Board for bargaining rights as bargaining agent of the employees in the bargaining unit only during the month of December,

(a) in the third year of operation of the agreement; or

(b) in each year of operation of the agreement after the third year.

Bargaining  
units

**68.**—(1) The bargaining units set out in the Schedules are the units for collective bargaining purposes under this Act.

Employee  
organization  
that has  
bargaining  
rights

(2) The employee organization that is party to the agreement covering the academic staff bargaining unit or the support staff bargaining unit upon the coming into force of this Act shall be deemed to have been granted bargaining rights in relation to such bargaining unit upon the coming into force of this Act.

Representa-  
tion vote

**69.**—(1) Upon an application for bargaining rights by an employee organization claiming not less than 35 per cent of the employees in the appropriate bargaining unit as members, the Ontario Labour Relations Board upon satisfying itself that not less than 35 per cent of such employees are members of the employee organization shall direct that a representation vote be taken.

Bargaining  
rights

(2) If, on the taking of a representation vote, more than 50 per cent of the ballots cast are in favour of the employee organization, the Ontario Labour Relations Board shall grant bargaining rights to the employee organization as the bargaining agent of the employees in the bargaining unit.

Where  
participation  
by Council  
or employer

**70.** The Ontario Labour Relations Board shall not grant bargaining rights to any employee organization in the formation or administration of which there has been or is, in the opinion of the Ontario Labour Relations Board, participation by the Council, or an employer or any person acting on behalf of the Council or an employer of such a nature, as to impair the employee organization's fitness to represent the interest of employees in the bargaining unit.

Notice of  
desire to  
negotiate

**71.** Upon being granted bargaining rights under section 69, the employee organization may give the Council written notice of its desire to negotiate with a view to making an agreement.

Application  
for termina-  
tion of  
representa-  
tion  
rights

**72.**—(1) If an employee organization does not enter into an agreement with the Council within one year after being granted bargaining rights or fails to give notice of its



intention to bargain as provided under section 71 and no such notice has been given by the Council, the Council or any employee in the bargaining unit concerned may apply to the Ontario Labour Relations Board for a declaration that the employee organization no longer represents the employees in the bargaining unit.

(2) Any employee in the bargaining unit covered by an agreement may apply to the Ontario Labour Relations Board for a declaration that the employee organization no longer represents the employees in the bargaining unit only during the month of December immediately prior to the termination date of the agreement. Idem

(3) Upon the application under subsection 2, the Ontario Labour Relations Board shall ascertain the number of employees in the bargaining unit at the time the application was made and if a majority of the employees in the bargaining unit have voluntarily signified in writing that they no longer wish to be represented by the employee organization, the Ontario Labour Relations Board shall conduct a representation vote to determine whether or not the employees desire that the right of the employee organization to bargain on their behalf be terminated. Representation vote

(4) If, on the taking of the representation vote, more than 50 per cent of the ballots cast are in opposition to the employee organization, the Ontario Labour Relations Board shall declare that the employee organization that was granted bargaining rights or that was or is a party to the agreement, as the case may be, no longer represents the employees in the bargaining unit. Result of vote

(5) Upon the Ontario Labour Relations Board declaring that the employee organization no longer represents the employees in the bargaining unit, the employee organization ceases to have such representation rights and any agreement in operation between the employee organization and the Council that is binding upon the employees in the bargaining unit ceases to operate and any decision of an arbitrator, board of arbitration or selector applying to the bargaining unit ceases to have effect. Effect of termination

**73.**—(1) Where the Ontario Labour Relations Board is advised by an employee organization that it wishes to be released of its representation rights in respect of a bargaining unit or where the Ontario Labour Relations Board, upon application by the employer or any employee in a bargaining unit represented by an employee organization, determines that the employee organization has ceased to act Termination of rights where employee organization desires or has ceased to act

on behalf of the employees, the Ontario Labour Relations Board shall declare that the employee organization no longer represents the employees in the bargaining unit.

Where rights  
obtained by  
fraud

(2) Where the Ontario Labour Relations Board is satisfied that an employee organization has obtained representation rights in respect of a bargaining unit by fraud, the Ontario Labour Relations Board shall declare that the employee organization no longer represents the employees in the bargaining unit.

Effect of  
termination

(3) Upon the Ontario Labour Relations Board declaring that the employee organization no longer represents the employees in the bargaining unit, the employee organization ceases to have such bargaining rights and any agreement in operation between the employee organization and the Council that is binding upon the employees in the bargaining unit ceases to operate and any decision made by an arbitrator, board of arbitration or selector, applying to the bargaining unit ceases to have effect.

Persuasion  
at place  
of work

**74.** No person shall attempt at the employee's place of employment to persuade him to become or refrain from becoming a member of an employee organization, except as the Council and an employee organization may otherwise agree.

Suspension  
or quitting  
for cause

**75.** Nothing in this Act prohibits any suspension or discontinuance for cause of an employer's operations or the quitting of employment for cause if the suspension, discontinuance or quitting does not constitute a lock-out or strike.

Interference  
with  
employee  
organization  
prohibited

**76.**—(1) No person who is acting on behalf of the Council or an employer shall participate in or interfere with the selection, formation or administration of an employee organization or the representation of employees by such an organization, but nothing in this section shall be deemed to deprive the Council or an employer or any person acting on behalf of the Council or an employer of his freedom to express his views so long as he does not use coercion, intimidation, threats, promises or undue influence.

Interference  
with  
employees  
rights  
prohibited

(2) The Council, an employer or any person acting on behalf of an employer shall not,

- (a) refuse to employ or to continue to employ or discriminate against a person with regard to employment or any term or condition of employment because the person is exercising any right under this Act or is or is not a member of an employee organization;



- (b) impose any condition on an appointment or in a contract of employment that seeks to restrain an employee or a person seeking employment from becoming a member of an employee organization or exercising any right under this Act;
- (c) seek by intimidation, by threat of dismissal or by any other kind of threat or by the imposition of a pecuniary or any other penalty or by any other means to compel an employee to become or refrain from becoming or to continue or cease to be a member of an employee organization, or to refrain from exercising any other right under this Act,

but no person shall be deemed to have contravened this subsection by reason of any act or thing done or omitted in relation to a person employed in a managerial or confidential capacity.

(3) No person or employee organization shall seek by intimidation or coercion to compel any person to become or refrain from becoming or to continue to be or to cease to be a member of an employee organization or to refrain from exercising any other rights under this Act or from performing any obligations under this Act. Intimidation  
and  
coercion

**77.** An employee organization shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employees, whether members of the employee organization or not. Duty of fair  
represent-  
ation

**78.—(1)** The Ontario Labour Relations Board may appoint an investigator with authority to inquire into a complaint that, Inquiry by  
investigator

- (a) a person has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act as to his employment, opportunity for employment or conditions of employment;
- (b) a person has been suspended, expelled or penalized in any way contrary to section 80;
- (c) an employee organization, employer or any person or persons has acted in any way contrary to section 77 or 81.

(2) The investigator shall forthwith inquire into the complaint and endeavour to effect a settlement of the matter. Duties

Report

(3) The investigator shall report the results of his inquiry and endeavours to the Ontario Labour Relations Board.

Inquiry by  
Board

(4) Where an investigator is unable to effect a settlement of the matter or where the Ontario Labour Relations Board in its discretion considers it advisable to dispense with an inquiry by an investigator, the Ontario Labour Relations Board may inquire into the complaint and,

- (a) if the Ontario Labour Relations Board is satisfied that the person concerned has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act as to his employment, opportunity for employment or conditions of employment by the Council, employer or by any person or employee organization it shall determine what, if anything, the Council, employer, person or employee organization shall do or refrain from doing with respect thereto, and such determination may include the hiring or reinstatement in employment of the person concerned, with or without compensation or compensation in lieu of hiring or reinstatement for loss of earnings and other employment benefits for which compensation may be assessed against the Council, employer, person or employee organization, jointly or severally, and the Council, employer, person or employee organization shall, notwithstanding the provisions of any agreement, do or abstain from doing anything required of them or any of them by the determination;
- (b) if the Ontario Labour Relations Board is satisfied that the person concerned has been suspended, expelled or penalized in any way contrary to section 80 it shall so declare and thereupon the suspension, expulsion or penalty is void; or
- (c) if the Ontario Labour Relations Board is satisfied that the employee organization, Council, employer, person or employee concerned has acted contrary to section 77 or 81, it shall determine what, if anything, the employee organization, Council, employer, person or employee shall do or refrain from doing with respect thereto, and such determination may include compensation for loss of earnings and other employment benefits and the employee organization, Council, employer, person or employee shall, notwithstanding the provisions of any agreement, do or abstain from doing anything required of them or it.

(5) Where the matter complained of has been settled, whether through the endeavours of the investigator or otherwise, and the terms of the settlement have been put in writing and signed by the parties or their representatives, the settlement is binding upon the parties, the employee organization, Council, employer, person or employee who have agreed to the settlement and shall be complied with according to its terms and a complaint that the employee organization, Council, employer, person or employee who has agreed to the settlement has not complied with the terms of the settlement shall be deemed to be a complaint under clause *a*, *b* or *c* of subsection 1, as the case may be. Effect of settlement

(6) The records of an employee organization relating to membership or any records that may disclose whether a person is or is not a member of an employee organization or does or does not desire to be represented by an employee organization produced in a proceeding before the Ontario Labour Relations Board is for the exclusive use of the Ontario Labour Relations Board and its officers and shall not, except with the consent of the Ontario Labour Relations Board, be disclosed and no person shall, except with the consent of the Ontario Labour Relations Board be compelled to disclose whether a person is or is not a member of an employee organization or does or does not desire to be represented by an employee organization. Records of employee organization

**79.** No person shall do any act if he knows or ought to know that, as a probable and reasonable consequence of the act, another person or persons will take any action contrary to section 60. Causing unlawful strikes

**80.** No employee organization shall suspend, expel or penalize in any way a member because he has refused to engage in or to continue to engage in any action contrary to section 60. Refusal to engage in unlawful strike

**81.—(1)** The Council or an employer or any person acting on behalf of the Council or an employer shall not, Protection of witnesses rights

- (a) refuse to employ or continue to employ a person;
- (b) threaten dismissal or otherwise threaten a person;
- (c) discriminate against a person in regard to employment or a term or condition of employment; or
- (d) intimidate or coerce or impose a pecuniary or other penalty on a person,

because of a belief that he may testify in a proceeding under this Act or because he has made or is about to make a disclosure that may be required of him in a proceeding under this Act or because he has made an application or filed a complaint under this Act or because he has participated or is about to participate in a proceeding under this Act.

Idem

(2) No employee organization or person acting on behalf of an employee organization shall,

- (a) discriminate against a person in regard to employment or a term or condition of employment; or
- (b) intimidate or coerce or impose a pecuniary or other penalty on a person,

because of a belief that he may testify in a proceeding under this Act or because he has made or is about to make a disclosure that may be required of him in a proceeding under this Act or because he has made an application or filed a complaint under this Act or because he has participated or is about to participate in a proceeding under this Act.

Whether  
person  
employee

**82.** If, in the course of bargaining for an agreement or during the period of operation of an agreement, a question arises as to whether a person is an employee, the question may be referred to the Ontario Labour Relations Board and its decision thereon is final and binding for all purposes.

Powers of  
Ontario  
Labour  
relations  
Board

**83.**—(1) The Ontario Labour Relations Board shall exercise such powers and perform such duties as are conferred upon it by this Act and has power,

- (a) to enter any premises of an employer where work is being or has been done by the employees or in which an employer carries on business and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person respecting any matter;
- (b) to enter upon the premises of an employer and conduct representation votes during working hours and give such directions in connection with the vote as it considers necessary;
- (c) to authorize any person to do anything that the Ontario Labour Relations Board may do under clauses *a* and *b* and to report to the Ontario Labour Relations Board thereon;



- (d) to determine the form in which and the time as of which evidence of membership in an employee organization or of objection by employees to representation rights of an employee organization or of signification by employees that they no longer wish to be represented by an employee organization shall be presented to the Ontario Labour Relations Board on an application for representation rights or for a declaration terminating representation rights, and to refuse to accept any evidence of membership or objection or signification that is not presented in the form and as of the time so determined; and

- (e) to administer oaths and affirmations.

(2) The decision of the majority of the members of the Ontario Labour Relations Board present and constituting a quorum is the decision of the Ontario Labour Relations Board, but, if there is no majority, the decision of the chairman or vice-chairman governs. Decisions

(3) The Ontario Labour Relations Board shall determine its own practice and procedure but shall give full opportunity to the parties to any proceedings to present their evidence and to make their submissions, and the Ontario Labour Relations Board may, subject to the approval of the Lieutenant Governor in Council, make rules governing its practice and procedure and the exercise of its powers and prescribing such forms as are considered advisable. Practice and procedure, etc.

## PART X

### MISCELLANEOUS

**84.** Where, under this Act, a party is required to give notice to another party, the party giving the notice shall also within the same time limit, if any, give a copy of the notice to the Commission. Copies of notices to be given to Commission

**85.**—(1) No decision, order, determination, direction, declaration or ruling of the Commission, a fact finder, an arbitrator or board of arbitration, a selector or the Ontario Labour Relations Board shall be questioned or reviewed in any court, and no order shall be made or process entered, or proceedings taken in, any court, whether by way of injunction, declaratory judgments, certiorari, mandamus, prohibition, quo warranto, application for judicial review or otherwise, to question, review, prohibit or restrain the Commission, fact finder, arbitrator or board of arbitration, selector or the Ontario Labour Relations Board or the proceedings of any of them. Decisions, etc., of Commission and others not subject to review

Defects  
in form,  
technical  
irregularities

(2) No proceedings under this Act are invalid by reason of any defect of form or any technical irregularity and no such proceedings shall be quashed or set aside if no substantial wrong or miscarriage of justice has occurred.

Service of  
notice

**86.** Any notice or document required or authorized by this Act to be given shall,

- (a) where it is to be given to the Commission, be delivered to the office of the Commission;
- (b) where it is to be given to the Council or an employer, be delivered to the office of the Council or the employer, as the case may require;
- (c) where it is to be given to an employee organization, be delivered to an officer of the employee organization;
- (d) where it is to be given to an arbitrator or selector, be delivered to the arbitrator or selector; and
- (e) where it is to be given to a board of arbitration, be delivered to the chairman.

Costs

**87.**—(1) The expenditures incurred by a party in respect of a person appointed or retained by the party for the purpose of making or renewing an agreement shall be borne by the party and all other expenses, including fees for a single arbitrator, a selector or a chairman of a board of arbitration shall be shared equally by the parties and such expenditures and fees shall be paid within sixty days after the agreement or renewal of agreement is executed or is deemed in effect as though it had been executed by the parties.

Idem

(2) The fees and expenses, if any, of persons assigned by the Commission to assist parties to make or renew an agreement and of fact finders appointed by the Commission shall be paid by the Commission.

Officers,  
constitution,  
etc.

**88.**—(1) Where the Ontario Labour Relations Board so directs, an employee organization shall file with the Ontario Labour Relations Board, within the time prescribed in the direction, a copy of its constitution and by-laws, and a statement signed by its president or secretary setting out the names and addresses of its officers.

Duty to  
furnish  
financial  
statements

(2) Every employee organization that represents employees shall upon the request of any employee furnish him, without



charge, with a copy of the audited financial statement of its affairs to the end of its last fiscal year certified by its treasurer or other officer responsible for the handling and administration of its funds to be a true copy, and, upon the complaint of any employee that the employee organization has failed to furnish such a statement to him, the Ontario Labour Relations Board may direct the employee organization to file with the Registrar, within such time as the Ontario Labour Relations Board may determine, a copy of the audited financial statement of its affairs to the end of its last fiscal year verified by the affidavit of its treasurer or other officer responsible for the handling and administration of its funds and to furnish a copy of such statement to such employees as the Ontario Labour Relations Board in its discretion may direct, and the employee organization shall comply with such direction according to its terms.

(3) Every employee organization that represents employees or applies to represent employees under this Act shall file with the Ontario Labour Relations Board a notice giving the name and address of a person in Ontario who is authorized by the employee organization to accept on its behalf service of process and notices under this Act, and service on the person named in such notice is good and sufficient service for the purposes of this Act on the employee organization that filed the notice.

Representative for service of process

**89.** Where an employee organization conducts a vote of employees,

Vote by secret ballot

- (a) for the purposes of subsection 1 of section 60; or
- (b) to give approval to the terms of an agreement,

the vote shall be a vote by secret ballot conducted under the supervision of and in the manner determined by the Commission.

**90.**—(1) Every person who contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 for each day upon which the contravention occurs or continues.

Contravention of Act by person

(2) Every employer and every employee organization that contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$10,000 for each day upon which such contravention occurs or continues.

Contravention of Act by employer or employee organization

Contra-  
vention of  
decision,  
etc.

(3) The contravention of a decision, order, determination, direction, declaration or ruling made under this Act is deemed for the purposes of this section, to be a contravention of this Act.

Where  
officer guilty  
of offence

(4) Where an employer or employee organization is guilty of an offence under this Act, every officer, official or agent thereof who assents to the commission of the offence shall be deemed to be a party to and guilty of the offence and is liable to a fine under subsection 1 as if he had been convicted of an offence under subsection 1.

Information

(5) An information in respect of a contravention of any provision of this Act may be for one or more offences and no information, warrant, conviction or other proceedings in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences.

Consent to  
prosecution

(6) No prosecution for an offence under this Act shall be instituted except with the consent of the Ontario Labour Relations Board which may only be granted after affording an opportunity to the person or body seeking the consent and the person or body sought to be prosecuted to be heard.

Style of  
prosecution

**91.** A prosecution for an offence under this Act may be instituted against any body, association or organization in the name of the body, association or organization whether or not the body, association or organization is a body corporate and, for the purposes of any such prosecution, any unincorporated body, association or organization shall be deemed to be a body corporate.

Vicarious  
responsi-  
bility

**92.** Any act or thing done or omitted by an officer, official or agent of the Council, employer or employee organization within the apparent scope of his authority to act on behalf of the Council, employer or employee organization shall be deemed to be an act or thing done or omitted by the Council, employer or employee organization, as the case may be.

Compella-  
bility of  
witnesses

**93.** Notwithstanding any other provision of this Act,

- (a) the Minister of Colleges and Universities;
- (b) the Deputy Minister of Colleges and Universities;
- (c) the chairman, a vice-chairman or a member or employee of the Ontario Labour Relations Board;
- (d) an arbitrator or member or chairman of a board of arbitration; or

(e) a selector,

is not a compellable witness in any proceeding under this Act or before a court or tribunal.

**94.** Where the Ontario Public Service Labour Relations Tribunal or an arbitration board established under *The Crown Employees Collective Bargaining Act, 1972* or the Public Service Grievance Board proposed to hold or commenced but did not complete a matter or did not make a decision or declaration thereon, immediately before this Act comes into force, the matter shall be continued and the Tribunal, the arbitration board or the Public Service Grievance Board, as the case may be, shall continue and complete the matter and make a decision or declaration thereon that shall be effective for all purposes.

Continuation  
of matters  
1972, c. 67

**95.**—(1) *The Arbitrations Act* does not apply to proceedings under this Act.

Application  
of R.S.O. 1970,  
c. 25

(2) *The Statutory Powers Procedure Act, 1971* applies to proceedings of the Ontario Labour Relations Board but does not apply to other proceedings under this Act.

Idem,  
1971, c. 47

**96.** This Act comes into force on the day it receives Royal Assent.

Commence-  
ment

**97.** This Act may be cited as *The Colleges Collective Bargaining Act, 1975*.

Short title

## SCHEDULE 1

The academic staff bargaining unit includes the employees of all boards of governors of colleges of applied arts and technology who are employed as teachers, counsellors or librarians but does not include,

- (i) chairmen,
- (ii) department heads,
- (iii) directors,
- (iv) persons above the rank of chairman, department head or director,
- (v) other persons employed in a managerial or confidential capacity,
- (vi) teachers who teach for six hours or less per week,
- (vii) counsellors and librarians regularly employed for less than twenty-four hours per week,
- (viii) teachers, counsellors or librarians who are appointed for one or more sessions and who are employed for not more than twelve months in any twenty-four month period,
- (ix) a person who is a member of the architectural, dental, engineering, legal or medical profession, entitled to practise in Ontario and employed in a professional capacity, or
- (x) a person engaged and employed outside Ontario.

## SCHEDULE 2

The support staff bargaining unit includes the employees of all boards of governors of colleges of applied arts and technology employed in the following classifications:

- 1. Clerk, General
- 2. Typist-Stenographer
- 3. Secretary
- 4. Operator, Key Punch
- 5. Operator, Switchboard
- 6. Operator, Offset
- 7. Computer Operator
- 8. Technician
- 9. Technologist
- 10. Library Technician
- 11. Nursing Assistant
- 12. Nurse Health Centre
- 13. Senior Nurse Health Centre
- 14. Driver

15. Bus Driver
16. Security Guard
17. Stationary Engineer
18. Caretaker
19. Cook
20. Food Service Attendant
21. Kitchen Helper
22. Clerk, Supply
23. Maintenance Handyman
24. Tradesman Journeyman
25. Nursery School Assistant
26. Nursery School Leader
27. Assistant Cook

but does not include,

- (i) foremen,
- (ii) supervisors,
- (iii) persons above the rank of foreman or supervisor,
- (iv) persons employed in a confidential capacity in matters related to employee relations or the formulation or application of a budget of a college of applied arts and technology or of a constituent campus of a college of applied arts and technology including persons employed in clerical, stenographic or secretarial positions,
- (v) other persons employed in a managerial or confidential capacity,
- (vi) persons regularly employed for not more than twenty-four hours a week,
- (vii) students employed in a co-operative educational training program undertaken with a school, college or university,
- (viii) a graduate of a college of applied arts and technology during the period of twelve months immediately following completion of a course of study or instruction at the college by the graduate if the employment of the graduate is associated with a certification, registration or other licensing requirement,
- (ix) a person engaged for a project of a non-recurring kind,
- (x) a person who is a member of the architectural, dental, engineering, legal or medical profession, entitled to practise in Ontario and employed in a professional capacity, or
- (xi) a person engaged and employed outside Ontario.







An Act respecting Collective Bargaining  
for Colleges of Applied Arts and  
Technology

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*1st Reading*

June 13th, 1975

*2nd Reading*

*3rd Reading*

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THE HON. J. A. C. AULD  
Minister of Colleges and Universities

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*(Government Bill)*

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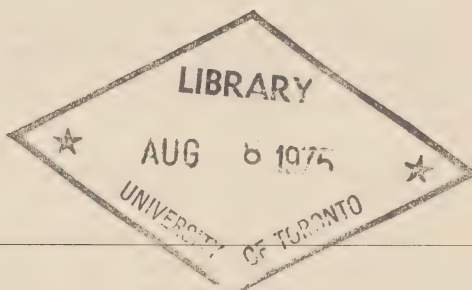
**BILL 108**

Government  
Publications  
Government Bill

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

Ontario. Legislative Assembly

**An Act respecting Collective Bargaining for Colleges  
of Applied Arts and Technology**



THE HON. J. A. C. AULD  
Minister of Colleges and Universities

*(Reprinted as amended by the Committee of the Whole House)*

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTE

The Bill provides procedures for the making and renewing of agreements between the Ontario Council of Regents on behalf of the boards of governors of the colleges of applied arts and technology and employee organizations that represent the persons employed as academic or support staff.

Provision is made for the appointment of a fact finder and for a choice by the parties of voluntary binding arbitration or final offer selection.

The Bill prohibits strike action unless no agreement is in force, every reasonable effort has been made in good faith to make an agreement, the fact finding procedure has been carried out, the last offer of the Council has been rejected by a vote by secret ballot of the employees, a strike vote has been taken and at least five days notice of the strike and of the date on which the strike will commence has been given by the employee organization to the Council.

The College Relations Commission is established with, among other duties, those of monitoring negotiations between the employee organizations that represent the employees and the Ontario Council of Regents, the compiling of statistical information and the assisting of the parties in the making and renewing of agreements.

Provision is made for application by an employee organization to the Ontario Labour Relations Board to become the bargaining agent. Existing bargaining rights are continued and a representation rights procedure provided for displacement and termination of bargaining rights as well as expression of freedom to join an employee organization of the employee's choice.

BILL 108

1975

## An Act respecting Collective Bargaining for Colleges of Applied Arts and Technology

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### PART I

#### GENERAL

1. In this Act and in the Schedules,

Interpre-  
tation

- (a) “agreement” means a written collective agreement between the Council on behalf of the employers and an employee organization covering terms and conditions of employment negotiable under this Act;
- (b) “bargaining unit” means the academic staff bargaining unit of employees or the support staff bargaining unit of employees set out in Schedules 1 and 2;
- (c) “board” means a board of governors of a college of applied arts and technology;
- (d) “Commission” means the College Relations Commission established under this Act;
- (e) “Council” means the Ontario Council of Regents for Colleges of Applied Arts and Technology;
- (f) “employee” means a person employed by a board of governors of a college of applied arts and technology in a position or classification that is within the academic staff bargaining unit or the support staff bargaining unit set out in Schedules 1 and 2;
- (g) “employee organization” means an organization of employees formed for the purpose of regulating relations between the employer and employees under

this Act, but does not include such an organization of employees that discriminates against any employee because of age, sex, race, national origin, colour or religion ;

- (h) “employer” means a board of governors of a college of applied arts and technology ;
- (i) “lock-out” means the suspension of employment of, or the refusal to assign work to employees by a board with the view of compelling the cessation of a strike or preventing the resumption of a strike or with the view to inducing or persuading the employee organization that represents the employees to enter into or renew an agreement ;
- (j) “matters in dispute” means matters in dispute that are within the scope of negotiations under this Act ;
- (k) “party” means the Council or an employee organization ;
- (l) “person employed in a managerial or confidential capacity” means a person who,
  - (i) is involved in the formulation of organization objectives and policy in relation to the development and administration of programs of the employer or in the formulation of budgets of the employer,
  - (ii) spends a significant portion of his time in the supervision of employees,
  - (iii) is required by reason of his duties or responsibilities to deal formally on behalf of the employer with a grievance of an employee,
  - (iv) is employed in a position confidential to any person described in subclause i, ii or iii,
  - (v) is employed in a confidential capacity in matters relating to employee relations,
  - (vi) is not otherwise described in subclauses i to v but who, in the opinion of the Ontario Labour Relations Board should not be included in a bargaining unit by reason of his duties and responsibilities to the employer ;





(m) "strike" includes a cessation of work, a refusal to work or to continue to work by employees in combination or in concert or in accordance with a common understanding or any concerted action or activity on the part of employees designed to curtail, restrict, limit or interfere with the operation or functioning of a college or colleges including, without limiting the foregoing,

(i) withdrawal of services,

(ii) slow-down in the performance of duties,

(iii) the giving of notice to terminate employment ;



(n) "vote by secret ballot" means a vote by ballots cast in such a manner that a person expressing his choice cannot be identified with the choice expressed.

**2.—**(1) This Act applies to all collective negotiations concerning terms and conditions of employment of employees. Application of Act

(2) No collective negotiations shall be carried on except in accordance with this Act. Negotiations to be in accordance with Act

(3) The Council shall have the exclusive responsibility for all negotiations on behalf of employers conducted under this Act. Council to act on behalf of employers

**3.—**(1) Where negotiations for the renewal of the agreement covering the academic staff bargaining unit are being carried on between the Council and an employee organization immediately before this Act comes into force, the Council and the employee organization shall continue the negotiations in good faith with the view to making an agreement in accordance with this Act and written notice of desire to negotiate with the view to making an agreement shall be deemed to have been given pursuant to this Act. Transitional provision

(2) In the case of the agreement covering the support staff bargaining unit that expires on the 31st day of March, 1976, the employee organization may give written notice to the Council or the Council may give written notice to the employee organization in accordance with the terms of the agreement. Idem. notice

Where notice  
not given

(3) Where the notice mentioned in subsection 2 is not given within the period of time provided therein, the agreement mentioned in subsection 2 shall be deemed to be renewed and to continue in force for a further period of one year from the day on which it would have expired.

## PART II

### NEGOTIATIONS

Subject-  
matter of  
negotiations

4. Negotiations shall be carried out in respect of any term or condition of employment put forward by either party, except for superannuation.

Notice of  
desire to  
negotiate for  
renewal of  
agreement

5.—(1) Either party to an agreement may give written notice to the other party within the month of January in the year in which the agreement expires of its desire to negotiate with the view to the renewal, with or without modification of the agreement then in operation.

Where notice  
not given of  
desire to  
negotiate  
renewal of  
agreement

(2) Where an agreement exists and no party to the agreement gives notice in accordance with this Act of its desire to negotiate with the view to the renewal of the agreement, the agreement continues in operation and is renewed from year to year, with each yearly period expiring on the 31st day of August, until the year, if any, in which notice is given in accordance with this Act of desire to negotiate with the view to the renewal, with or without modification, of the agreement.

Obligation  
to negotiate

6. The parties shall meet within thirty days from the giving of the notice under section 5 or 71 and they shall negotiate in good faith and make every reasonable effort to make an agreement or to renew the agreement, as the case requires.

Parties may  
choose  
procedures to  
reach  
agreement

7.—(1) The parties, at any time during negotiations to make or renew an agreement, may agree to,

(a) request the Commission to assign a person to assist the parties to make or renew the agreement;

(b) request the Commission to appoint a fact finder as provided in Part III; or



(c) refer all matters remaining in dispute between them that may be provided for in an agreement to,



(i) an arbitrator or a board of arbitration for determination as provided in Part IV, or


- (ii) a selector for determination as provided in Part V.


(2) The agreement to refer all matters remaining in dispute between them to an arbitrator or board of arbitration or a selector shall be deemed to include a provision that there will be no strike or lock-out. Effect of choice of procedure

8. The Commission may, in the exercise of its own discretion, at any time assign a person to assist the parties to make or renew an agreement. Where Commission may assign person to assist parties

### PART III

#### FACT FINDING

 9. The Commission shall appoint forthwith a person as a fact finder during negotiations to make or renew an agreement if the parties have not referred all matters remaining in dispute between them to an arbitrator or board of arbitration as provided in Part IV or a selector as provided in Part V and, Appointment of fact finder

- (a) one or both of the parties gives notice to the Commission that an impasse has been reached in the negotiations and requests the appointment of a fact finder, and the Commission approves the request;
- (b) the Commission is of the opinion that an impasse has been reached in the negotiations; or
- (c) the agreement that was in operation in respect of the parties expires during negotiations between the parties to make or renew an agreement, and fact finding has not taken place as provided in this Part. 

10. The parties to negotiations to make or renew an agreement may, notwithstanding the appointment of a fact finder, Parties may proceed to make agreement or to arbitration or selection procedure

- (a) make or renew the agreement; or
- (b) agree to refer all matters remaining in dispute between them to,
  - (i) an arbitrator or a board of arbitration for determination as provided in Part IV, or
  - (ii) a selector for determination as provided in Part V,

and upon the giving of notice to the Commission by the parties that they have so acted, the appointment of the fact finder is terminated.

Effect of  
choice of  
procedure

**11.** The agreement to refer all matters remaining in dispute between them to an arbitrator or board of arbitration or a selector shall be deemed to include a provision that there will be no strike or lock-out.

Persons  
prohibited as  
fact finder

**12.** No person shall be appointed a fact finder who has a direct pecuniary interest in the matters coming before him or who is acting or has, within the period of six months immediately before the date of his appointment, acted as solicitor, counsel, negotiator, advisor or agent of either of the parties or a board.

Vacancy

**13.** Where a fact finder ceases to act by reason of withdrawal, death or otherwise before submitting his report to the Commission, the Commission shall appoint another person in his stead and such person shall commence the work of the fact finder *de novo*.

Notice of  
appointment  
of fact  
finder

**14.** Where the Commission appoints a fact finder, the Commission shall give written notice to each of the parties of the appointment of and the name and address of the fact finder.

Notice of  
matters  
agreed upon  
and matters  
in dispute

**15.—(1)** Within seven days after the receipt of notice from the Commission of the appointment of the fact finder, each party shall give written notice to the fact finder and to the other party setting out all the matters that the parties have agreed upon for inclusion in an agreement and all the matters remaining in dispute between the parties.

Where  
notice  
not given

**(2)** Where a party fails to comply with subsection 1, the fact finder may make a determination of the matters mentioned in subsection 1 and may then proceed pursuant to this Part.

Duty of  
fact finder

**16.—(1)** It is the duty of a fact finder to confer with the parties and to inquire into, ascertain and make a report setting out the matters agreed upon by the parties for inclusion in an agreement and the matters remaining in dispute between the parties.

What report  
may contain

**(2)** A fact finder may, in his report, include his findings in respect of any matter that he considers relevant to the making of an agreement between the parties and recommend terms of settlement of the matters remaining in dispute between the parties.



**17.** In inquiring into and ascertaining the matters remaining in dispute between the parties, the fact finder may inquire into and consider any matter that the fact finder considers relevant to the making of an agreement between the parties including, without limiting the foregoing, Matters that may be considered by fact finder

- (a) the conditions of employment in occupations outside the teaching sector;
- (b) the effect of geographic or other local factors on the terms and conditions of employment;
- (c) the cost to the employers of the proposal of either party;
- (d) the interests and welfare of the public.

**18.** The fact finder shall determine his own procedure under guidelines established by the Commission and, where the fact finder requests information from a party, the party shall, acting in good faith, provide the fact finder with full and complete information. Procedure of fact finder



**19.** The fact finder shall submit his report to the Commission within thirty days after the date of his appointment or within such longer period of time as the Commission may direct and the Commission shall forthwith give a copy of the report to each of the parties. Submission of report of fact finder

**20.** The report of the fact finder is not binding on the parties but is made for the advice and guidance of the parties and upon receipt of the report the parties shall endeavour, in good faith, to make an agreement or to renew the agreement, as the case may be. Report not binding



**21.**—(1) Where the Commission has given a copy of the report of the fact finder to each of the parties and the Commission is of the opinion that the parties will or are likely to benefit from assistance, the Commission may assign a person to assist the parties to make or renew, as the case may be, the agreement. Assignment of assistance

(2) Where the Commission has given a copy of the report of the fact finder to each of the parties and both of the parties request assistance from the Commission, the Commission shall assign a person to assist the parties to make or renew, as the case may be, the agreement. Idem



**22.**—(1) If the parties make or renew, as the case may be, an agreement within fifteen days after the Commission has Where report confidential



given a copy of the report to each of the parties, the report shall not be made public by the Commission, either of the parties or by any person.

Release of  
report

(2) If the parties do not make an agreement, or renew the agreement, as the case may be, within the period of time specified in subsection 1, the Commission shall make public the report of the fact finder.

Deferring of  
report

(3) Notwithstanding subsections 1 and 2, where both parties agree and the Commission approves, the Commission may defer making public the report of the fact finder for an additional period of not more than five days.

Parties  
may agree  
to refer  
matters in  
dispute

**23.**—(1) If the parties do not make or renew, as the case may be, an agreement within fifteen days after the Commission has given a copy of the report of the fact finder to each of the parties, the parties may agree to refer all matters in dispute between them that may be provided for in an agreement to,

(a) an arbitrator or a board of arbitration for determination as provided in Part IV; or

(b) a selector for determination as provided in Part V.

Effect of  
choice of  
procedure

(2) The agreement to refer all matters remaining in dispute between them to an arbitrator or board of arbitration or a selector shall be deemed to include a provision that there will be no strike or lock-out.

## PART IV

### VOLUNTARY BINDING ARBITRATION

Parties to  
give notice to  
Commission  
where  
arbitration  
agreed  
upon

**24.**—(1) Where the parties agree to refer all matters remaining in dispute between them that may be provided for in an agreement to an arbitrator or a board of arbitration, the parties shall jointly give written notice to the Commission that they have so agreed and the notice shall state,

(a) that the parties agree to refer the matters to an arbitrator and,

(i) the date of appointment and the name and address of the arbitrator, or

(ii) that the parties have not appointed the arbitrator and that the parties request the Commission to appoint the arbitrator; or

(b) that the parties agree to refer the matters to a board of arbitration and,



- (i) that the parties have each appointed a person as a member of the board of arbitration and shall set out the names and addresses of the two members so appointed, or
- (ii) that both of the parties or one of them, as the case may be, has not appointed a person as a member of the board of arbitration and that the parties request the Commission to appoint the members or member, as the case may be, of the board.

(2) Except as provided in section 50, a party shall not withdraw from arbitration proceedings under this Part after notice is given to the Commission in accordance with subsection 1.

Party not to withdraw

(3) Where the parties, in the notice mentioned in subsection 1, request the Commission to appoint the arbitrator or the members or one of the members of the board of arbitration, the Commission shall make the appointment or appointments and shall forthwith thereafter give notice thereof to the parties setting out the name and address of the appointee or the names and addresses of the appointees, as the case may be, together with the date of the appointment or appointments.

Where appointments made by Commission

(4) Where the parties agree to refer all matters remaining in dispute between them to a board of arbitration, the two members of the board of arbitration shall, within ten days after the giving of notice of their appointment by the parties or by the Commission, as the case may be, appoint a third person to be chairman of the board of arbitration and the chairman shall forthwith give written notice to the Commission of his appointment.

Appointment of chairman by members

(5) Where the two members of the board of arbitration are unable to appoint or to agree on the appointment of the chairman of the board of arbitration within the period of time set out in subsection 4, the Commission shall appoint the chairman and shall give notice of the appointment to the two members and to the parties and the notice shall set out the name and address of the person appointed and the date of the appointment.

Where Commission to appoint chairman

**25.** No person shall be appointed an arbitrator or member or chairman of a board of arbitration who has a direct pecuniary interest in the matters coming before him or who is acting or has, within the period of six months immediately before the date of his appointment, acted as solicitor, counsel, negotiator, advisor or agent of either of the parties or a board.

Persons prohibited as arbitrator or members or chairman of board of arbitration

Vacancy

**26.**—(1) Where a member of a board of arbitration is unable to enter on or to carry on his duties so as to enable a decision to be rendered within the period of time required by subsection 2 or ceases to act by reason of withdrawal or death before the board of arbitration has completed its work, a replacement shall be appointed by the party that appointed the member, or failing such appointment, by the Commission and the board of arbitration shall continue to function as if such member were a member of the board of arbitration from the beginning.

Where chairman unable to act

(2) Where the chairman of a board of arbitration is unable to enter on or to carry on his duties so as to enable a decision to be rendered within sixty days after his appointment or within such longer period of time as may be provided in writing by the board of arbitration and consented to by the Commission or ceases to act by reason of withdrawal or death, the Commission shall give notice thereof to the members of the board of arbitration who shall, within seven days of the giving of the notice, appoint a person to be the chairman and if the appointment is not so made by the members it shall be made by the Commission, and after the chairman is appointed the arbitration shall begin *de novo*.

Where arbitrator unable to act

(3) Where an arbitrator is unable to enter on or to carry on his duties so as to enable a decision to be rendered within sixty days after his appointment or within such longer period of time as may be provided in writing by the arbitrator and consented to by the Commission or ceases to act by reason of withdrawal or death, the Commission shall give notice thereof to the parties who shall, within seven days of the giving of the notice, appoint a person to be the arbitrator and if the appointment is not so made it shall be made by the Commission and after the arbitrator is appointed the arbitration shall begin *de novo*.

Notice of matters agreed upon and matters in dispute

**27.** Within seven days after the giving of notice that the arbitrator or the chairman of the board of arbitration, as the case may be, has been appointed, each party shall give written notice to the arbitrator or chairman and to the other party setting out all the matters that the parties have agreed upon for inclusion in an agreement and all the matters remaining in dispute between the parties.

Procedure

**28.**—(1) The arbitrator or board of arbitration shall determine his or its own procedure but shall give full opportunity to the parties to present their evidence and make their submissions.

Idem

(2) If the members of a board of arbitration are unable to agree among themselves on matters of procedure or as to the admissibility of evidence, the decision of the chairman governs.

(3) The decision of a majority of a board of arbitration <sup>Decision</sup> is the decision of the board, but if there is no majority, the decision of the chairman is the decision of the board.

**29.—**(1) The arbitrator or board of arbitration has power, <sup>Powers of arbitrator or board of arbitration</sup>

(a) to summon any person,

(i) to give oral or written evidence on oath or affirmation to the arbitrator or board of arbitration, or

(ii) to produce in evidence for the arbitrator or board of arbitration such documents and other things as the arbitrator or board of arbitration may specify;

(b) to administer oaths and affirmations;

(c) to accept for or exclude from consideration any oral testimony, document or other thing, whether admissible in a court of law or not.

(2) Where any person without lawful excuse,

(a) on being duly summoned under subsection 1 as a witness before the arbitrator or board of arbitration, as the case may be, makes default in so attending;

(b) being in attendance as a witness before the arbitrator or board of arbitration, as the case may be, refuses to take an oath or to make an affirmation legally required by the arbitrator or board of arbitration to be taken or made, or to produce any document or thing in his power or control legally required by the arbitrator or board of arbitration to be produced to him or it, or to answer any question to which the arbitrator or board of arbitration may legally require an answer; or

(c) does any other thing that would, if the arbitrator or board of arbitration had been a court of law having power to commit for contempt, have been contempt of that court,

the arbitrator or board of arbitration may state a case to the Divisional Court setting out the facts and that court may, on the application of the arbitrator or board of arbitration, inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person

and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court.

Duty of  
arbitrator  
or board of  
arbitration

**30.**—(1) The arbitrator or board of arbitration shall inquire into, consider and decide on all matters remaining in dispute between the parties.

Matters that  
may be  
considered by  
arbitrator or  
board of  
arbitration

(2) In the conduct of proceedings before him or it and in reaching a decision in respect of a matter in dispute, the arbitrator or board of arbitration may inquire into and consider any matter that the arbitrator or board of arbitration considers relevant to the making of an agreement between the parties.

Time for  
report of  
arbitrator or  
board of  
arbitration

**31.**—(1) The arbitrator or board of arbitration shall complete the consideration of all matters in dispute between the parties and shall report in writing his or its decision on the matters to the parties and to the Commission within sixty days after the giving of notice of the appointment of the arbitrator or of the appointment of the chairman of the board of arbitration, as the case may be, or within such longer period of time as may be provided in writing by the arbitrator or board of arbitration and consented to by the Commission.

Effect of  
decision

(2) The decision of the arbitrator or board of arbitration is binding upon the parties and they shall comply in good faith with the decision.

Reference  
back to  
arbitrator  
or board of  
arbitration

(3) The arbitrator or board of arbitration may, upon application by either party to a decision within ten days after the release of the decision, subject to affording the parties the opportunity to make representations thereupon to the arbitrator or board of arbitration amend, alter or vary the decision where it is shown to the satisfaction of the arbitrator or board of arbitration that it has failed to deal with any matter in dispute referred to it or that an error is apparent on the face of the decision.

Preparation  
and  
execution of  
documents

**32.**—(1) Within thirty days after receipt by the parties of the report of the arbitrator or board of arbitration, as the case may be, the parties shall prepare a document giving effect to all matters agreed upon by the parties and the decision of the arbitrator or board of arbitration and shall execute the document and thereupon it constitutes an agreement.

Where  
arbitrator  
or board of  
arbitration  
to prepare  
document

(2) If the parties fail to execute the document within the period of time mentioned in subsection 1, the arbitrator or



board of arbitration, as the case may be, shall prepare the document and submit it to the parties and shall fix the time within which and the place where the parties shall execute the document.

(3) If the parties or either of them fail to execute the document within the time fixed by the arbitrator or the board of arbitration, the document shall be deemed to be in effect as though it had been executed by the parties and the document thereupon constitutes an agreement. Failure to execute document

## PART V

### FINAL OFFER SELECTION

**33.**—(1) Where the parties agree to refer all matters remaining in dispute between them that may be provided for in an agreement to a selector, the parties shall jointly give written notice to the Commission that they have so agreed and the notice shall state that the parties agree to refer the matters to a selector and, Parties to give notice to Commission where selection agreed upon

- (a) the date of appointment and the name and address of the selector; or
- (b) that the parties have not appointed the selector and that the parties request the Commission to appoint the selector.

(2) The parties shall, together with the notice mentioned in subsection 1, give to the Commission a written statement signed by the parties setting out that neither party will withdraw from the proceedings after the final offers of the parties have been submitted to the selector and that the decision of the selector will be accepted by the parties as binding upon them. Statement by parties

(3) Except as provided in section 50, where the parties give to the Commission a written statement in accordance with subsection 2, a party shall not withdraw from the proceedings after the final offer of either of the parties has been submitted to the selector. Party not to withdraw

(4) Where the parties request the Commission to appoint the selector, the Commission shall make the appointment and give notice of the appointment of the selector to the parties and the notice shall set out the name and address of the person appointed and the date of the appointment. Where Commission appoints selector

**34.** No person shall be appointed a selector who has a direct pecuniary interest in the matters coming before him or who is acting or has, within the period of six months immediately before the date of his appointment, acted as solicitor, counsel, negotiator, advisor or agent of either of the parties or a board. Persons prohibited as selector

Selector  
unable to  
act

**35.** Where a selector is unable to enter on or to carry on his duties so as to enable a decision to be rendered within the time specified by this Act or such longer period of time as may be provided in writing by the selector and consented to by the Commission or ceases to act by reason of withdrawal or death, the Commission shall give notice thereof to the parties who shall, within seven days of the giving of the notice, appoint a person to be the selector, and if the appointment is not so made by the parties it shall be made by the Commission, and after the selector is appointed, the selection procedure shall begin *de novo*.

Notice of  
matters  
agreed upon  
and matters  
in dispute

**36.** Within seven days after the giving of notice that the selector has been appointed, the parties shall jointly give written notice to the selector setting out all the matters that the parties have agreed upon for inclusion in an agreement and all the matters remaining in dispute between the parties.

Notice of  
final offer

**37.** Within fifteen days after the giving of notice that the selector has been appointed, each party shall give written notice to the selector setting out the final offer of the party on all the matters remaining in dispute between the parties and may submit with the notice a written statement in support of the final offer set out in the notice.

Final offer of  
opposite  
party

**38.** Upon receiving the notices of the parties setting out the final offer of each party, the selector shall forthwith give to each party a copy of the notice setting out the final offer of the opposite party on all the matters remaining in dispute between the parties together with a copy of the statement, if any, of the opposite party submitted in support of the final offer of the opposite party.

Written  
response

**39.** Each party may, within ten days after being given a copy of the final offer and supporting statement, if any, of the opposite party, give to the selector a written reply and the selector shall forthwith give a copy of the reply of each party to the opposite party.

Hearing

**40.** Within fifteen days after each party has been given a copy of the final offer and supporting statement, if any, of the opposite party, or within such longer period of time as may be provided in writing by the selector and consented to by the Commission, the selector shall hold a hearing in respect of the matters remaining in dispute between the parties and may, before making a selection, hold a further hearing or hearings.



**41.** The parties may agree to dispense with a hearing by the selector and in such case may jointly give written notice to the selector that they have so agreed, and the selector, upon receipt of the notice, shall not hold a hearing but shall proceed to his decision. Parties may dispense with hearing

**42.—(1)** The selector shall determine his own procedure but, in holding a hearing, shall give full opportunity to the parties to present their evidence and make their submissions. Procedure

(2) The selector has power, Powers of selector

(a) to summon any person,

(i) to give oral or written evidence on oath or affirmation to the selector, or

(ii) to produce in evidence for the selector such documents and other things as the selector may specify;

(b) to administer oaths and affirmations;

(c) to accept for or exclude from consideration any oral testimony, document or other thing, whether admissible in a court of law or not.




(3) Where any person without lawful excuse, Contempt proceedings

(a) on being duly summoned under subsection 2 as a witness before the selector makes default in so attending;

(b) being in attendance as a witness before the selector refuses to take an oath or to make an affirmation legally required by the selector to be taken or made, or to produce any document or thing in his power or control legally required by the selector to be produced to him, or to answer any question to which the selector may legally require an answer; or

(c) does any other thing that would, if the selector had been a court of law having power to commit for contempt, have been contempt of that court,

the selector may state a case to the Divisional Court setting out the facts and that court may, on the application of the selector, inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be

offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court. 

Selection  
of final  
offer

**43.** The selector shall, within fifteen days after the conclusion of the hearing or hearings or within fifteen days after the giving of the notice by the parties that they have agreed to dispense with a hearing, as the case may be, or within such longer period of time as may be provided in writing by the selector and consented to by the Commission, make a decision selecting all of one of the final offers on all matters remaining in dispute between the parties given to the selector by one or the other of the parties.

Effect of  
decision

**44.** The decision of the selector is binding upon the parties and they shall comply in good faith with the decision.

Preparation  
and  
execution of  
document by  
parties

**45.—(1)** Within thirty days after receipt of notice of the decision of the selector, the parties shall prepare a document giving effect to all matters agreed upon by the parties and the decision of the selector and shall execute the document and thereupon it constitutes an agreement.

Where  
selector to  
prepare  
document

(2) If the parties fail to execute the document within the period of time mentioned in subsection 1, the selector shall prepare the document and submit it to the parties and shall fix the time within which and the place where the parties shall execute the document.

Failure to  
execute  
document

(3) If the parties or either of them fail to execute the document within the time fixed by the selector, the document shall be deemed to be in effect as though it had been executed by the parties and the document thereupon constitutes an agreement.

## PART VI

### AGREEMENTS

Term of  
agreement

**46.—(1)** Every agreement shall,

- (a) provide for a term of operation of not less than one year;
- (b) state that it is effective on and after the 1st day of September in the year in which it is to come into operation; and
- (c) state that it expires on the 31st day of August in the year in which it ceases to operate.

(2) Notwithstanding clause *b* of subsection 1, an agree-<sup>Exception</sup>ment covering the support staff bargaining unit that expires on the 31st day of March, 1976, may be renewed effective the 1st day of April, 1976.

47.—(1) Every agreement shall provide for the final and binding settlement by arbitration of all differences between an employer and the employee organization arising from the interpretation, application, administration or alleged contravention of the agreement including any question as to whether a matter is arbitrable.<sup>Arbitration provision</sup>

(2) Unless an agreement otherwise provides for the final<sup>Idem</sup> and binding settlement of all differences between an employer and the employee organization arising from the interpretation, application, administration or alleged contravention of the agreement, the agreement is deemed to include the following provision:

Where a difference arises between an employer and the employee organization relating to the interpretation, application or administration of this agreement, or where an allegation is made that this agreement has been contravened, including any question as to whether the matter is arbitrable, either the employer or the employee organization may, after exhausting any grievance procedure established by this agreement, notify the other in writing of its desire to submit the difference or allegation to arbitration and the notice shall contain the name of its appointee to an arbitration board. The recipient of the notice shall within five days inform the other either that it accepts the other's appointee as a single arbitrator or inform the other of the name of its appointee to the arbitration board. Where two appointees are so selected they shall, within five days of the appointment of the second of them, appoint a third person who shall be the chairman. If the recipient of the notice fails to appoint an arbitrator or if the two appointees fail to agree upon a chairman within the time limited, the appointment shall be made by the Commission upon the request of either the employer or the employee organization. The single arbitrator or the arbitration board, as the case may be, shall hear and determine the difference or allegation and shall issue a decision and the decision is final and binding upon the employer and the employee organization and upon any employee affected by it. The decision of a majority is the decision of the arbitration board, but, if there is no majority, the decision of the chairman governs. The arbitrator or arbitration board, as the case may be,

shall not by his or its decision add to, delete from, modify or otherwise amend the provisions of this agreement.

Powers of arbitrator or board of arbitration

(3) An arbitrator or chairman of an arbitration board, as the case may be, referred to in this section, has the same powers as an arbitrator or board of arbitration under subsection 1 of section 29.

Penalty where employee disciplined, etc.

(4) Where an arbitrator or board of arbitration referred to in this section determines that a disciplinary penalty or dismissal of an employee is excessive, it may substitute such other penalty for the discipline or dismissal as it considers just and reasonable in all the circumstances.

Decision

(5) The decision of an arbitrator or of an arbitration board is final and binding upon the employer, employee organization and upon the employees covered by the agreement who are affected by the decision, and such employer, employee organization and employees shall do or refrain from doing anything required of them by the decision.

Enforcement

(6) Where an employer, employee organization or an employee has failed to comply with any of the terms of the decision of an arbitrator or arbitration board, any employer, employee organization or employee affected by the decision may, after the expiration of fourteen days from the date of the release of the decision or the date provided in the decision for compliance, whichever is later, file in the office of the Registrar of the Supreme Court a copy of the decision, exclusive of the reasons therefor, in the prescribed form, whereupon the decision shall be entered in the same way as a judgment or order of that court and is enforceable as such.

Remuneration and expenses

(7) The employer and employee organization shall each pay one-half the remuneration and expenses of the arbitrator or chairman of the board of arbitration referred to in this section and shall pay the remuneration and expenses of the person it appoints to such an arbitration board.

Application of R.S.O. 1970, c. 25, 1971, c. 47

(8) *The Arbitrations Act* and *The Statutory Powers Procedure Act, 1971* do not apply to arbitration proceedings under this section.

Provision against strikes and lock-outs

**48.—**(1) Every agreement shall provide that there will be no strike or lock-out during the term of the agreement or of any renewal of the agreement.

Statutory provision

(2) If an agreement does not contain the provision mentioned in subsection 1, the agreement shall be deemed to contain the following provision:



"There shall be no strike or lock-out during the term of this agreement or of any renewal of this agreement".

**49.**—(1) No agreement, decision of an arbitrator, board of arbitration or selector shall contain any term that would require either directly or indirectly for its implementation the enactment or amendment of legislation. Agreement not to require legislative implementation

(2) Where a conflict appears between any provision of an agreement and any provision of any legislation, the provision of the legislation prevails. Conflict

**50.** Where the parties agree on all the matters to be included in an agreement, whether during or at the conclusion of negotiations or other proceedings under this Act, they shall prepare a document incorporating all the matters agreed upon and shall execute the document and the document thereupon constitutes an agreement. Where agreement reached

**51.** Upon the execution of an agreement, each party to the agreement shall forthwith give written notice thereof, together with a copy of the agreement, to the Commission. Notice to Commission of execution of agreement

**52.**—(1) An agreement is binding upon the Council, the employers and the employee organization that is a party to it and upon the employees in the bargaining unit covered by the agreement. Binding effect of agreement

(2) Subsection 1 applies to the agreement covering the academic staff bargaining unit and the agreement covering the support staff bargaining unit in operation upon the coming into force of this Act. Idem

**53.** Every agreement shall be deemed to provide that the employee organization that is a party thereto is recognized as the exclusive bargaining agent for the bargaining unit to which the agreement applies. Recognition provision

**54.**—(1) The parties to an agreement may provide for the payment by the employees of dues or contributions to the employee organization. Payment of dues to employee organization

(2) Where the Ontario Labour Relations Board is satisfied that an employee because of his religious convictions or belief objects to paying dues or contributions to an employee organization, the Ontario Labour Relations Board shall order that the provisions of the agreement pertaining thereto do not apply to such employee and that the employee is not required to pay dues or contributions to the employee Where objection to dues because of religious belief

organization, provided that amounts equivalent thereto are remitted by the employer to a charitable organization mutually agreed upon by the employee and the employee organization and failing such agreement then to such charitable organization registered as such under Part I of the *Income Tax Act* (Canada) as may be designated by the Ontario Labour Relations Board.

1970-71,  
c. 63 (Can.)

Requiring  
membership  
in employee  
organization  
prohibited

(3) No agreement shall contain a provision which would require, as a condition of employment, membership in the employee organization.

Working  
conditions  
may not be  
altered

**55.**—(1) Where notice has been given by either party to an agreement under section 5, except as altered by an agreement in writing by the parties, the terms and provisions of the agreement then in operation shall continue to operate until there is a right to strike or lock-out as provided in this Act.

Idem

(2) Where notice has been given by the employee organization under section 71, the conditions then in effect applicable to or binding upon the Council, the employer, the employee organization or the employees which are subject to negotiations within the meaning of this Act shall not be altered without the consent of the Council, the employer, the employee organization or the employees, as the case may be, until there is a right to strike or lock-out as provided in this Act.

## PART VII

### COLLEGE RELATIONS COMMISSION

Commission  
established

**56.**—(1) There shall be a commission to be known as the College Relations Commission composed of five persons who shall be appointed by the Lieutenant Governor in Council.

Chairman  
and vice-  
chairman

(2) The Lieutenant Governor in Council shall designate a chairman and a vice-chairman from among the members of the Commission.

Acting  
chairman

(3) In the case of the absence or inability to act of the chairman or of there being a vacancy in the office of the chairman, the vice-chairman shall act as and have all the powers of the chairman, and, in the absence of the chairman and vice-chairman from any meeting of the Commission, the members of the Commission present at the meeting shall appoint an acting chairman who shall act as and have all the powers of the chairman during the meeting.



(4) The members of the Commission shall be appointed <sup>Term of office</sup> for a term of one, two or three years so that as nearly as possible one-third of the members shall retire each year.


(5) Every vacancy on the Commission caused by the <sup>Vacancy</sup> death, resignation or incapacity of a member may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member.

(6) Each of the members of the Commission is eligible <sup>Re-appointment</sup> for reappointment upon the expiration of his term of office.


(7) Three members of the Commission constitute a quorum <sup>Quorum</sup> and are sufficient for the exercise of all the authority of the Commission.

(8) The powers of the Commission shall be exercised by <sup>Exercising powers</sup> resolution and the Commission may pass resolutions governing the calling of and the proceedings at meetings and specifying the powers and duties of employees of the Commission and generally dealing with the carrying out of its duties.

(9) The members of the Commission shall be paid such <sup>Remuneration</sup> remuneration and expenses as are determined by the Lieutenant Governor in Council.

 (10) Subject to the approval of the Lieutenant Governor <sup>Officers, staff, etc.</sup> in Council, the Commission may,

(a) establish job classifications, salary ranges and terms and conditions of employment for its employees; and

(b) appoint and pay such employees as are considered proper. 

(11) *The Public Service Superannuation Act* applies to the <sup>R.S.O. 1970, c. 387, applicable</sup> permanent employees of the Commission as though the Commission had been designated by the Lieutenant Governor in Council under section 27 of that Act.

(12) The Commission may engage persons other than those employed pursuant to subsection 10 to provide <sup>Professional and other assistance</sup> professional, technical or other assistance to or on behalf of the Commission, and may prescribe the terms of engagement and provide for payment of the remuneration and expenses of such persons.

**57.—(1)** It is the duty of the Commission,

- (a) to carry out the duties imposed on it by this Act and such other functions as may, in the opinion of the Commission, be necessary to carry out the intent and purpose of this Act;
- (b) to maintain an awareness of negotiations between the parties;
- (c) to compile statistical information on the supply, distribution, professional activities and salaries of employees;
- (d) to provide such assistance to parties as may facilitate the making or renewing of agreements;
- (e) to select and, where necessary, to train persons who may act as mediators, fact finders, arbitrators or selectors;
- (f) to determine, at the request of either party or in the exercise of its discretion, whether or not either of the parties is or was negotiating in good faith and making every reasonable effort to make or renew an agreement;
- (g) to determine the manner of conducting and to supervise votes by secret ballot pursuant to this Act; and



- (h) to advise the Lieutenant Governor in Council when, in the opinion of the Commission, the continuance of a strike, lock-out or closing of a college or colleges will place in jeopardy the successful completion of courses of study by the students affected by the strike, lock-out or closing of a college or colleges.

(2) The Commission may request an employer to provide information necessary to compile the statistical information referred to in clause c of subsection 1 and an employer shall comply with such a request within a reasonable period of time.

(3) The Commission shall annually prepare a report on the affairs of the Commission for the preceding year and the report shall be tabled in the Legislature.

**58.** No member of, or person employed or engaged by, the Commission shall be required to give testimony in any proceeding under this Act or before a court or tribunal with regard to information obtained by him in the discharge of his duties as a member of or person employed or engaged by the Commission. Testimony by member of Commission

**59.** The moneys required for the purposes of the Commission shall, until the 31st day of March, 1976, and, subject to the approval of the Lieutenant Governor in Council, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature. Moneys

## PART VIII

### STRIKES AND LOCK-OUTS

**60.**—(1) No employee shall strike unless, Strike

(a) there is no agreement in operation between the Council and the employee organization that represents the employee;

(b) notice of desire to negotiate to make or renew an agreement, has been given by either party;

(c) all the matters remaining in dispute between the Council and the employee organization that represents the employee have been referred to a fact finder and fifteen days have elapsed after the Commission has made public the report of the fact finder;

(d) the offer of the Council in respect of all matters remaining in dispute between the parties last received by the employee organization that represents the employee is submitted to and rejected by the employees in the bargaining unit by a vote by secret ballot conducted under the supervision of and in the manner determined by the Commission;

(e) the employees in the bargaining unit have voted, not earlier than the vote referred to in clause *d* and not before the end of the fifteen-day period referred to in clause *c*, in favour of a strike by a vote by secret ballot conducted under the supervision of and in the manner determined by the Commission; and

- (f) after a vote in favour of a strike in accordance with clause *e*, the employee organization that represents the employee gives the Council and the employer written notice of the strike and of the date on which the strike will commence at least five days before the commencement of the strike.

Interim  
provision

(2) Where an agreement is in operation upon the coming into force of this Act pursuant to section 52, no employee shall strike unless the requirements of subsection 1 are complied with.

Where  
employees  
deemed to  
take part  
in strike

(3) Where the employee organization gives notice of a lawful strike, all employees in the bargaining unit concerned shall be deemed to be taking part in the strike from the date on which the strike is to commence, as set out in the written notice, to the date on which the employee organization gives written notice to the Council and the employer that the strike is ended, and no employee shall be paid salary or benefits during such period.

Resumption  
of strike

(4) Where a strike is ended without an agreement coming into effect, no employee shall resume striking or engage in a new strike except after the provisions of clauses *d*, *e* and *f* of subsection 1 have again been complied with in respect of such resumption or new strike.

Unlawful  
strike

**61.—**(1) No employee organization shall call or authorize or threaten to call or authorize an unlawful strike.

Idem

(2) No officer, official, or agent of an employee organization shall counsel, procure, support or encourage an unlawful strike or threaten an unlawful strike.

Unlawful  
lock-out

**62.—**(1) The Council shall not and no employer shall call or authorize or threaten to call or authorize an unlawful lock-out.

Idem

(2) No officer, official, or agent of the Council or of an employer shall counsel, procure, support or encourage an unlawful lock-out or threaten an unlawful lock-out.

Declaration  
of unlawful  
strike

**63.—**(1) Where the employee organization calls or authorizes a strike or employees engage in a strike that the Council or an employer alleges is unlawful, the Council or the employer may apply to the Ontario Labour Relations Board for a declaration that the strike is unlawful, and the Board may make the declaration.

Declaration  
of unlawful  
lock-out

(2) Where the Council or employer calls or authorizes a lock-out of employees that the employee organization con-



cerned alleges is unlawful, such employee organization may apply to the Ontario Labour Relations Board for a declaration that the lock-out is unlawful, and the Board may make the declaration.



(3) Where the Ontario Labour Relations Board makes a declaration under subsection 1 or 2, the Board in its discretion may, in addition, direct what action if any a person, employee, employee organization, Council or employer and their officers, officials or agents shall do or refrain from doing with respect to the unlawful strike or unlawful lock-out. Direction by O.L.R.B.

(4) The Ontario Labour Relations Board shall file in the office of the Registrar of the Supreme Court a copy of a direction made under subsection 3, exclusive of the reasons therefor, whereupon the direction shall be entered in the same way as a judgment or order of the court and is enforceable as such. Enforcement of direction by S.C.O.



**64.**—(1) No employer shall lock-out employees unless, Lock-out

- (a) there is no agreement in operation between the Council and the employee organization that represents the employees;
- (b) notice of desire to negotiate or make or renew an agreement has been given by the Council to the employee organization that represents the employees or by the employee organization that represents the employees to the Council and the Council has negotiated in good faith and made every reasonable effort to make or renew an agreement;
- (c) all the matters remaining in dispute between the Council and the employee organization that represents the employees have been referred to a fact finder and thirty days have elapsed after the Commission has given a copy of the report of the fact finder to each of the parties;
- (d) the Council on behalf of all employers gives the employee organization that represents the employees written notice of the lock-out and of the date on which the lock-out will commence at least five days before the commencement of the lock-out.

(2) Where a lawful strike is declared or authorized or employees engage in a lawful strike, the employer may, with the approval of the Council, close a college or any part thereof where the employer is of the opinion that, Closing of college

- (a) the safety of students enrolled in the college may be endangered;
- (b) the college buildings or the equipment or supplies therein may not be adequately protected during the strike; or
- (c) the strike will substantially interfere with the operation of the college,

and may keep the college or any part thereof closed until the employee organization that called or authorized the strike or that represents the employees engaged in the strike gives written notice to the Council and the employer that the strike is ended.

Where  
lock-out  
deemed

(3) Where the Council gives notice of a lawful lock-out, all employers shall be deemed to be taking part in the lock-out from the date on which the lock-out is to commence set out in the written notice and an employee in the bargaining unit concerned is not entitled to be paid his salary and benefits in respect of the days on which he is prevented from performing his duty as the result of action by an employer pursuant to subsection 1 or 2.

Continua-  
tion of  
employment

**65.** For the purposes of this Act, no person shall be deemed to have ceased to be an employee by reason only of his ceasing to work for his employer as the result of a lawful lock-out or lawful strike or by reason only of his being dismissed by his employer contrary to this Act or to a collective agreement.

## PART IX

### REPRESENTATION RIGHTS

Membership  
in employee  
organization

**66.** Every person is free to join an employee organization of his own choice and to participate in its lawful activities.

Application  
for  
bargaining  
rights

**67.—(1)** Where an agreement is for a term of not more than three years, an employee organization may apply to the Ontario Labour Relations Board for bargaining rights as bargaining agent of the employees in the bargaining unit only during the month of December immediately prior to the termination date of the agreement.

Idem

(2) Where an agreement is for a term of more than three years, an employee organization may apply to the Ontario



Labour Relations Board for bargaining rights as bargaining agent of the employees in the bargaining unit only during the month of December,

- (a) in the third year of operation of the agreement; or
- (b) in each year of operation of the agreement after the third year.

**68.**—(1) The bargaining units set out in the Schedules are Bargaining units the units for collective bargaining purposes under this Act.

(2) The employee organization that is party to the agreement covering the academic staff bargaining unit or the support staff bargaining unit upon the coming into force of this Act shall be deemed to have been granted bargaining rights in relation to such bargaining unit upon the coming into force of this Act. Employee organization that has bargaining rights

**69.**—(1) Upon an application for bargaining rights by an employee organization claiming not less than 35 per cent of the employees in the appropriate bargaining unit as members, the Ontario Labour Relations Board upon satisfying itself that not less than 35 per cent of such employees are members of the employee organization shall direct that a representation vote be taken. Representation vote

(2) If, on the taking of a representation vote, more than 50 per cent of the ballots cast are in favour of the employee organization, the Ontario Labour Relations Board shall grant bargaining rights to the employee organization as the bargaining agent of the employees in the bargaining unit. Bargaining rights

**70.** The Ontario Labour Relations Board shall not grant bargaining rights to any employee organization in the formation or administration of which there has been or is, in the opinion of the Ontario Labour Relations Board, participation by the Council, or an employer or any person acting on behalf of the Council or an employer of such a nature, as to impair the employee organization's fitness to represent the interest of employees in the bargaining unit. Where participation by Council or employer

**71.** Upon being granted bargaining rights under section 69, the employee organization may give the Council written notice of its desire to negotiate with a view to making an agreement. Notice of desire to negotiate

**72.**—(1) If an employee organization does not enter into an agreement with the Council within one year after being granted bargaining rights or fails to give notice of its Application for termination of representation rights

intention to bargain as provided under section 71 and no such notice has been given by the Council, the Council or any employee in the bargaining unit concerned may apply to the Ontario Labour Relations Board for a declaration that the employee organization no longer represents the employees in the bargaining unit.

Idem

(2) Any employee in the bargaining unit covered by an agreement may apply to the Ontario Labour Relations Board for a declaration that the employee organization no longer represents the employees in the bargaining unit only during the month of December immediately prior to the termination date of the agreement.

Representa-  
tion vote

(3) Upon the application under subsection 2, the Ontario Labour Relations Board shall ascertain the number of employees in the bargaining unit at the time the application was made and if a majority of the employees in the bargaining unit have voluntarily signified in writing that they no longer wish to be represented by the employee organization, the Ontario Labour Relations Board shall conduct a representation vote to determine whether or not the employees desire that the right of the employee organization to bargain on their behalf be terminated.

Result of  
vote

(4) If, on the taking of the representation vote, more than 50 per cent of the ballots cast are in opposition to the employee organization, the Ontario Labour Relations Board shall declare that the employee organization that was granted bargaining rights or that was or is a party to the agreement, as the case may be, no longer represents the employees in the bargaining unit.

Effect of  
termination

(5) Upon the Ontario Labour Relations Board declaring that the employee organization no longer represents the employees in the bargaining unit, the employee organization ceases to have such representation rights and any agreement in operation between the employee organization and the Council that is binding upon the employees in the bargaining unit ceases to operate and any decision of an arbitrator, board of arbitration or selector applying to the bargaining unit ceases to have effect.

Termination  
of rights  
where  
employee  
organization  
desires or  
has ceased  
to act

**73.—**(1) Where the Ontario Labour Relations Board is advised by an employee organization that it wishes to be released of its representation rights in respect of a bargaining unit or where the Ontario Labour Relations Board, upon application by the employer or any employee in a bargaining unit represented by an employee organization, determines that the employee organization has ceased to act

on behalf of the employees, the Ontario Labour Relations Board shall declare that the employee organization no longer represents the employees in the bargaining unit.

(2) Where the Ontario Labour Relations Board is satisfied that an employee organization has obtained representation rights in respect of a bargaining unit by fraud, the Ontario Labour Relations Board shall declare that the employee organization no longer represents the employees in the bargaining unit. Where rights obtained by fraud

(3) Upon the Ontario Labour Relations Board declaring that the employee organization no longer represents the employees in the bargaining unit, the employee organization ceases to have such bargaining rights and any agreement in operation between the employee organization and the Council that is binding upon the employees in the bargaining unit ceases to operate and any decision made by an arbitrator, board of arbitration or selector, applying to the bargaining unit ceases to have effect. Effect of termination

**74.** No person shall attempt at the employee's place of employment to persuade him to become or refrain from becoming a member of an employee organization, except as the Council and an employee organization may otherwise agree. Persuasion at place of work

**75.** Nothing in this Act prohibits any suspension or discontinuance for cause of an employer's operations or the quitting of employment for cause if the suspension, discontinuance or quitting does not constitute a lock-out or strike. Suspension or quitting for cause

**76.—(1)** No person who is acting on behalf of the Council or an employer shall participate in or interfere with the selection, formation or administration of an employee organization or the representation of employees by such an organization, but nothing in this section shall be deemed to deprive the Council or an employer or any person acting on behalf of the Council or an employer of his freedom to express his views so long as he does not use coercion, intimidation, threats, promises or undue influence. Interference with employee organization prohibited

(2) The Council, an employer or any person acting on behalf of an employer shall not, Interference with employees rights prohibited

- (a) refuse to employ or to continue to employ or discriminate against a person with regard to employment or any term or condition of employment because the person is exercising any right under this Act or is or is not a member of an employee organization;

- (b) impose any condition on an appointment or in a contract of employment that seeks to restrain an employee or a person seeking employment from becoming a member of an employee organization or exercising any right under this Act;
- (c) seek by intimidation, by threat of dismissal or by any other kind of threat or by the imposition of a pecuniary or any other penalty or by any other means to compel an employee to become or refrain from becoming or to continue or cease to be a member of an employee organization, or to refrain from exercising any other right under this Act,

but no person shall be deemed to have contravened this subsection by reason of any act or thing done or omitted in relation to a person employed in a managerial or confidential capacity.

Intimidation  
and  
coercion

(3) No person or employee organization shall seek by intimidation or coercion to compel any person to become or refrain from becoming or to continue to be or to cease to be a member of an employee organization or to refrain from exercising any other rights under this Act or from performing any obligations under this Act.

Duty of fair  
representation

**77.** An employee organization shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employees, whether members of the employee organization or not.

Inquiry by  
investigator

**78.—(1)** The Ontario Labour Relations Board may appoint an investigator with authority to inquire into a complaint that,

- (a) a person has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act as to his employment, opportunity for employment or conditions of employment;
- (b) a person has been suspended, expelled or penalized in any way contrary to section 80;
- (c) an employee organization, employer or any person or persons has acted in any way contrary to section 77 or 81.

Duties

(2) The investigator shall forthwith inquire into the complaint and endeavour to effect a settlement of the matter.



(3) The investigator shall report the results of his inquiry <sup>Report</sup> and endeavours to the Ontario Labour Relations Board.

(4) Where an investigator is unable to effect a settle- <sup>Inquiry by Board</sup> ment of the matter or where the Ontario Labour Relations Board in its discretion considers it advisable to dispense with an inquiry by an investigator, the Ontario Labour Relations Board may inquire into the complaint and,

- (a) if the Ontario Labour Relations Board is satisfied that the person concerned has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act as to his employment, opportunity for employment or conditions of employment by the Council, employer or by any person or employee organization it shall determine what, if anything, the Council, employer, person or employee organization shall do or refrain from doing with respect thereto, and such determination may include the hiring or reinstatement in employment of the person concerned, with or without compensation or compensation in lieu of hiring or reinstatement for loss of earnings and other employment benefits for which compensation may be assessed against the Council, employer, person or employee organization, jointly or severally, and the Council, employer, person or employee organization shall, notwithstanding the provisions of any agreement, do or abstain from doing anything required of them or any of them by the determination;
- (b) if the Ontario Labour Relations Board is satisfied that the person concerned has been suspended, expelled or penalized in any way contrary to section 80 it shall so declare and thereupon the suspension, expulsion or penalty is void; or
- (c) if the Ontario Labour Relations Board is satisfied that the employee organization, Council, employer, person or employee concerned has acted contrary to section 77 or 81, it shall determine what, if anything, the employee organization, Council, employer, person or employee shall do or refrain from doing with respect thereto, and such determination may include compensation for loss of earnings and other employment benefits and the employee organization, Council, employer, person or employee shall, notwithstanding the provisions of any agreement, do or abstain from doing anything required of them or it.

Effect of  
settlement

(5) Where the matter complained of has been settled, whether through the endeavours of the investigator or otherwise, and the terms of the settlement have been put in writing and signed by the parties or their representatives, the settlement is binding upon the parties, the employee organization, Council, employer, person or employee who have agreed to the settlement and shall be complied with according to its terms and a complaint that the employee organization, Council, employer, person or employee who has agreed to the settlement has not complied with the terms of the settlement shall be deemed to be a complaint under clause *a*, *b* or *c* of subsection 1, as the case may be.

Records of  
employee  
organization

(6) The records of an employee organization relating to membership or any records that may disclose whether a person is or is not a member of an employee organization or does or does not desire to be represented by an employee organization produced in a proceeding before the Ontario Labour Relations Board is for the exclusive use of the Ontario Labour Relations Board and its officers and shall not, except with the consent of the Ontario Labour Relations Board, be disclosed and no person shall, except with the consent of the Ontario Labour Relations Board be compelled to disclose whether a person is or is not a member of an employee organization or does or does not desire to be represented by an employee organization.

Causing  
unlawful  
strikes

**79.** No person shall do any act if he knows or ought to know that, as a probable and reasonable consequence of the act, another person or persons will take any action contrary to section 60.

Refusal to  
engage in  
unlawful  
strike

**80.** No employee organization shall suspend, expel or penalize in any way a member because he has refused to engage in or to continue to engage in any action contrary to section 60.

Protection  
of witnesses  
rights

**81.—(1)** The Council or an employer or any person acting on behalf of the Council or an employer shall not,

- (a) refuse to employ or continue to employ a person;
- (b) threaten dismissal or otherwise threaten a person;
- (c) discriminate against a person in regard to employment or a term or condition of employment; or
- (d) intimidate or coerce or impose a pecuniary or other penalty on a person,



because of a belief that he may testify in a proceeding under this Act or because he has made or is about to make a disclosure that may be required of him in a proceeding under this Act or because he has made an application or filed a complaint under this Act or because he has participated or is about to participate in a proceeding under this Act.

(2) No employee organization or person acting on behalf <sup>Idem</sup> of an employee organization shall,

- (a) discriminate against a person in regard to employment or a term or condition of employment; or
- (b) intimidate or coerce or impose a pecuniary or other penalty on a person,

because of a belief that he may testify in a proceeding under this Act or because he has made or is about to make a disclosure that may be required of him in a proceeding under this Act or because he has made an application or filed a complaint under this Act or because he has participated or is about to participate in a proceeding under this Act.



**82.** If, in the course of bargaining for an agreement or during the period of operation of an agreement, a question arises as to whether a person is an employee, including a question as to whether a person employed as a chairman, department head, director, foreman or supervisor is employed in a managerial or confidential capacity pursuant to clause 1 of section 1 and the schedules, the question may be referred to the Ontario Labour Relations Board and its decision thereon is final and binding for all purposes.

Whether  
person  
employee

**83.—**(1) The Ontario Labour Relations Board shall exercise such powers and perform such duties as are conferred upon it by this Act and has power,

Powers of  
Ontario  
Labour  
relations  
Board

- (a) to enter any premises of an employer where work is being or has been done by the employees or in which an employer carries on business and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person respecting any matter;
- (b) to enter upon the premises of an employer and conduct representation votes during working hours and give such directions in connection with the vote as it considers necessary;

(c) to authorize any person to do anything that the Ontario Labour Relations Board may do under clauses *a* and *b* and to report to the Ontario Labour Relations Board thereon;

(d) to determine the form in which and the time as of which evidence of membership in an employee organization or of objection by employees to representation rights of an employee organization or of signification by employees that they no longer wish to be represented by an employee organization shall be presented to the Ontario Labour Relations Board on an application for representation rights or for a declaration terminating representation rights, and to refuse to accept any evidence of membership or objection or signification that is not presented in the form and as of the time so determined; and

(e) to administer oaths and affirmations.

#### Decisions

(2) The decision of the majority of the members of the Ontario Labour Relations Board present and constituting a quorum is the decision of the Ontario Labour Relations Board, but, if there is no majority, the decision of the chairman or vice-chairman governs.

#### Practice and procedure, etc.

(3) The Ontario Labour Relations Board shall determine its own practice and procedure but shall give full opportunity to the parties to any proceedings to present their evidence and to make their submissions, and the Ontario Labour Relations Board may, subject to the approval of the Lieutenant Governor in Council, make rules governing its practice and procedure and the exercise of its powers and prescribing such forms as are considered advisable.

## PART X

### MISCELLANEOUS

#### Copies of notices to be given to Commission

**84.** Where, under this Act, a party is required to give notice to another party, the party giving the notice shall also within the same time limit, if any, give a copy of the notice to the Commission.

#### Decisions, etc., of Commission and others not subject to review

**85.**—(1) No decision, order, determination, direction, declaration or ruling of the Commission, a fact finder, an arbitrator or board of arbitration, a selector or the Ontario Labour Relations Board shall be questioned or reviewed in any court, and no order shall be made or process entered, or proceedings taken in, any court, whether by way of injunction, declaratory judgments, certiorari, mandamus,

prohibition, quo warranto, application for judicial review or otherwise, to question, review, prohibit or restrain the Commission, fact finder, arbitrator or board of arbitration, selector or the Ontario Labour Relations Board or the proceedings of any of them.

(2) No proceedings under this Act are invalid by reason of any defect of form or any technical irregularity and no such proceedings shall be quashed or set aside if no substantial wrong or miscarriage of justice has occurred. Defects in form, technical irregularities

**86.** Any notice or document required or authorized by this Act to be given shall, Service of notice

- (a) where it is to be given to the Commission, be delivered to the office of the Commission;
- (b) where it is to be given to the Council or an employer, be delivered to the office of the Council or the employer, as the case may require;
- (c) where it is to be given to an employee organization, be delivered to an officer of the employee organization;
- (d) where it is to be given to an arbitrator or selector, be delivered to the arbitrator or selector; and
- (e) where it is to be given to a board of arbitration, be delivered to the chairman.

**87.—**(1) The expenditures incurred by a party in respect of a person appointed or retained by the party for the purpose of making or renewing an agreement shall be borne by the party and all other expenses, including fees for a single arbitrator, a selector or a chairman of a board of arbitration shall be shared equally by the parties and such expenditures and fees shall be paid within sixty days after the agreement or renewal of agreement is executed or is deemed in effect as though it had been executed by the parties. Costs

(2) The fees and expenses, if any, of persons assigned by the Commission to assist parties to make or renew an agreement and of fact finders appointed by the Commission shall be paid by the Commission. Idem

**88.—**(1) Where the Ontario Labour Relations Board so directs, an employee organization shall file with the Ontario Labour Relations Board, within the time prescribed in the direction, a copy of its constitution and by-laws, and a statement signed by its president or secretary setting out the names and addresses of its officers. Officers, constitution, etc.

Duty to  
furnish  
financial  
statements

(2) Every employee organization that represents employees shall upon the request of any employee furnish him, without charge, with a copy of the audited financial statement of its affairs to the end of its last fiscal year certified by its treasurer or other officer responsible for the handling and administration of its funds to be a true copy, and, upon the complaint of any employee that the employee organization has failed to furnish such a statement to him, the Ontario Labour Relations Board may direct the employee organization to file with the Registrar, within such time as the Ontario Labour Relations Board may determine, a copy of the audited financial statement of its affairs to the end of its last fiscal year verified by the affidavit of its treasurer or other officer responsible for the handling and administration of its funds and to furnish a copy of such statement to such employees as the Ontario Labour Relations Board in its discretion may direct, and the employee organization shall comply with such direction according to its terms.

Representative for  
service of  
process

(3) Every employee organization that represents employees or applies to represent employees under this Act shall file with the Ontario Labour Relations Board a notice giving the name and address of a person in Ontario who is authorized by the employee organization to accept on its behalf service of process and notices under this Act, and service on the person named in such notice is good and sufficient service for the purposes of this Act on the employee organization that filed the notice.

Vote by  
secret  
ballot

**89.** Where an employee organization conducts a vote of employees,

- (a) for the purposes of subsection 1 of section 60; or
- (b) to give approval to the terms of an agreement,

the vote shall be a vote by secret ballot conducted under the supervision of and in the manner determined by the Commission.

Contra-  
vention of  
Act by  
person

**90.**—(1) Every person who contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 for each day upon which the contravention occurs or continues.

Contra-  
vention of  
Act by  
employer or  
employee  
organization

(2) Every employer and every employee organization that contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$10,000 for each day upon which such contravention occurs or continues.



(3) The contravention of a decision, order, determination, direction, declaration or ruling made under this Act is deemed for the purposes of this section, to be a contravention of this Act. Contra-  
vention of  
decision,  
etc.

(4) Where an employer or employee organization is guilty of an offence under this Act, every officer, official or agent thereof who assents to the commission of the offence shall be deemed to be a party to and guilty of the offence and is liable to a fine under subsection 1 as if he had been convicted of an offence under subsection 1. Where  
officer guilty  
of offence

(5) An information in respect of a contravention of any provision of this Act may be for one or more offences and no information, warrant, conviction or other proceedings in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. Information

(6) No prosecution for an offence under this Act shall be instituted except with the consent of the Ontario Labour Relations Board which may only be granted after affording an opportunity to the person or body seeking the consent and the person or body sought to be prosecuted to be heard. Consent to  
prosecution

**91.** A prosecution for an offence under this Act may be instituted against any body, association or organization in the name of the body, association or organization whether or not the body, association or organization is a body corporate and, for the purposes of any such prosecution, any unincorporated body, association or organization shall be deemed to be a body corporate. Style of  
prosecution

**92.** Any act or thing done or omitted by an officer, official or agent of the Council, employer or employee organization within the apparent scope of his authority to act on behalf of the Council, employer or employee organization shall be deemed to be an act or thing done or omitted by the Council, employer or employee organization, as the case may be. Vicarious  
responsi-  
bility

**93.** Notwithstanding any other provision of this Act, Compella-  
bility of  
witnesses

(a) the Minister of Colleges and Universities;

(b) the Deputy Minister of Colleges and Universities;

(c) a person employed in a position confidential to the Minister of Colleges and Universities or the Deputy Minister of Colleges and Universities;

- (d) the chairman, a vice-chairman or a member or employee of the Ontario Labour Relations Board;
- (e) an arbitrator or member or chairman of a board of arbitration; or
- (f) a selector,

is not a compellable witness in any proceeding under this Act or before a court or tribunal.

Continuation  
of matters  
1972, c. 67

**94.** Where the Ontario Public Service Labour Relations Tribunal or an arbitration board established under *The Crown Employees Collective Bargaining Act, 1972* or the Public Service Grievance Board proposed to hold or commenced but did not complete a matter or did not make a decision or declaration thereon, immediately before this Act comes into force, the matter shall be continued and the Tribunal, the arbitration board or the Public Service Grievance Board, as the case may be, shall continue and complete the matter and make a decision or declaration thereon that shall be effective for all purposes.

Application  
of R.S.O. 1970,  
c. 25

**95.**—(1) *The Arbitrations Act* does not apply to proceedings under this Act.

Idem,  
1971, c. 47

(2) *The Statutory Powers Procedure Act, 1971* applies to proceedings of the Ontario Labour Relations Board but does not apply to other proceedings under this Act.

Commence-  
ment

**96.** This Act comes into force on the day it receives Royal Assent.

Short title

**97.** This Act may be cited as *The Colleges Collective Bargaining Act, 1975*.



## SCHEDULE 1


The academic staff bargaining unit includes the employees of all boards of governors of colleges of applied arts and technology who are employed as teachers, counsellors or librarians but does not include,

- (i) chairmen,
- (ii) department heads,
- (iii) directors,
- (iv) persons above the rank of chairman, department head or director,
- (v) other persons employed in a managerial or confidential capacity,
- (vi) teachers who teach for six hours or less per week,
- (vii) counsellors and librarians employed on a part-time basis,
- (viii) teachers, counsellors or librarians who are appointed for one or more sessions and who are employed for not more than twelve months in any twenty-four month period,
- (ix) a person who is a member of the architectural, dental, engineering, legal or medical profession, entitled to practise in Ontario and employed in a professional capacity, or
- (x) a person engaged and employed outside Ontario.

## SCHEDULE 2

The support staff bargaining unit includes the employees of all boards of governors of colleges of applied arts and technology employed in positions or classifications in the office, clerical, technical, health care, maintenance, building service, shipping, transportation, cafeteria and nursery staff but does not include,

- (i) foremen,
- (ii) supervisors,
- (iii) persons above the rank of foreman or supervisor,
- (iv) persons employed in a confidential capacity in matters related to employee relations or the formulation of a budget of a college of applied arts and technology or of a constituent campus of a college of applied arts and technology including persons employed in clerical, stenographic or secretarial positions,
- (v) other persons employed in a managerial or confidential capacity,
- (vi) persons regularly employed for not more than twenty-four hours a week,
- (vii) students employed in a co-operative educational training program undertaken with a school, college or university,

- (viii) a graduate of a college of applied arts and technology during the period of twelve months immediately following completion of a course of study or instruction at the college by the graduate if the employment of the graduate is associated with a certification, registration or other licensing requirement,
  - (ix) a person engaged for a project of a non-recurring kind,
  - (x) a person who is a member of the architectural, dental, engineering, legal or medical profession, entitled to practise in Ontario and employed in a professional capacity, or
  - (xi) a person engaged and employed outside Ontario.
- 



Bill 108

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An Act respecting Collective Bargaining  
for Colleges of Applied Arts and  
Technology

---

*1st Reading*

June 13th, 1975

*2nd Reading*

July 7th, 1975

*3rd Reading*

---

THE HON. J. A. C. AULD  
Minister of Colleges and Universities

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(Reprinted as amended by the  
Committee of the Whole House)

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**BILL 108**

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

**An Act respecting Collective Bargaining for Colleges  
of Applied Arts and Technology**

THE HON. J. A. C. AULD  
Minister of Colleges and Universities



TORONTO  
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO





BILL 108

1975

## An Act respecting Collective Bargaining for Colleges of Applied Arts and Technology

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### PART I

#### GENERAL

1. In this Act and in the Schedules,

Interpre-  
tation

- (a) "agreement" means a written collective agreement between the Council on behalf of the employers and an employee organization covering terms and conditions of employment negotiable under this Act;
- (b) "bargaining unit" means the academic staff bargaining unit of employees or the support staff bargaining unit of employees set out in Schedules 1 and 2;
- (c) "board" means a board of governors of a college of applied arts and technology;
- (d) "Commission" means the College Relations Commission established under this Act;
- (e) "Council" means the Ontario Council of Regents for Colleges of Applied Arts and Technology;
- (f) "employee" means a person employed by a board of governors of a college of applied arts and technology in a position or classification that is within the academic staff bargaining unit or the support staff bargaining unit set out in Schedules 1 and 2;
- (g) "employee organization" means an organization of employees formed for the purpose of regulating relations between the employer and employees under

this Act, but does not include such an organization of employees that discriminates against any employee because of age, sex, race, national origin, colour or religion;

- (h) “employer” means a board of governors of a college of applied arts and technology;
- (i) “lock-out” means the suspension of employment of, or the refusal to assign work to employees by a board with the view of compelling the cessation of a strike or preventing the resumption of a strike or with the view to inducing or persuading the employee organization that represents the employees to enter into or renew an agreement;
- (j) “matters in dispute” means matters in dispute that are within the scope of negotiations under this Act;
- (k) “party” means the Council or an employee organization;
- (l) “person employed in a managerial or confidential capacity” means a person who,
  - (i) is involved in the formulation of organization objectives and policy in relation to the development and administration of programs of the employer or in the formulation of budgets of the employer,
  - (ii) spends a significant portion of his time in the supervision of employees,
  - (iii) is required by reason of his duties or responsibilities to deal formally on behalf of the employer with a grievance of an employee,
  - (iv) is employed in a position confidential to any person described in subclause i, ii or iii,
  - (v) is employed in a confidential capacity in matters relating to employee relations,
  - (vi) is not otherwise described in subclauses i to v but who, in the opinion of the Ontario Labour Relations Board should not be included in a bargaining unit by reason of his duties and responsibilities to the employer;

(m) "strike" includes a cessation of work, a refusal to work or to continue to work by employees in combination or in concert or in accordance with a common understanding or any concerted action or activity on the part of employees designed to curtail, restrict, limit or interfere with the operation or functioning of a college or colleges including, without limiting the foregoing,

(i) withdrawal of services,

(ii) slow-down in the performance of duties,

(iii) the giving of notice to terminate employment ;

(n) "vote by secret ballot" means a vote by ballots cast in such a manner that a person expressing his choice cannot be identified with the choice expressed.

**2.—**(1) This Act applies to all collective negotiations concerning terms and conditions of employment of employees. Application of Act

(2) No collective negotiations shall be carried on except in accordance with this Act. Negotiations to be in accordance with Act

(3) The Council shall have the exclusive responsibility for all negotiations on behalf of employers conducted under this Act. Council to act on behalf of employers

**3.—**(1) Where negotiations for the renewal of the agreement covering the academic staff bargaining unit are being carried on between the Council and an employee organization immediately before this Act comes into force, the Council and the employee organization shall continue the negotiations in good faith with the view to making an agreement in accordance with this Act and written notice of desire to negotiate with the view to making an agreement shall be deemed to have been given pursuant to this Act. Transitional provision

(2) In the case of the agreement covering the support staff bargaining unit that expires on the 31st day of March, 1976, the employee organization may give written notice to the Council or the Council may give written notice to the employee organization in accordance with the terms of the agreement. Idem. notice

Where notice  
not given

(3) Where the notice mentioned in subsection 2 is not given within the period of time provided therein, the agreement mentioned in subsection 2 shall be deemed to be renewed and to continue in force for a further period of one year from the day on which it would have expired.

## PART II

### NEGOTIATIONS

Subject-  
matter of  
negotiations

4. Negotiations shall be carried out in respect of any term or condition of employment put forward by either party, except for superannuation.

Notice of  
desire to  
negotiate for  
renewal of  
agreement

5.—(1) Either party to an agreement may give written notice to the other party within the month of January in the year in which the agreement expires of its desire to negotiate with the view to the renewal, with or without modification of the agreement then in operation.

Where notice  
not given of  
desire to  
negotiate  
renewal of  
agreement

(2) Where an agreement exists and no party to the agreement gives notice in accordance with this Act of its desire to negotiate with the view to the renewal of the agreement, the agreement continues in operation and is renewed from year to year, with each yearly period expiring on the 31st day of August, until the year, if any, in which notice is given in accordance with this Act of desire to negotiate with the view to the renewal, with or without modification, of the agreement.

Obligation  
to negotiate

6. The parties shall meet within thirty days from the giving of the notice under section 5 or 71 and they shall negotiate in good faith and make every reasonable effort to make an agreement or to renew the agreement, as the case requires.

Parties may  
choose  
procedures to  
reach  
agreement

7.—(1) The parties, at any time during negotiations to make or renew an agreement, may agree to,

- (a) request the Commission to assign a person to assist the parties to make or renew the agreement;
- (b) request the Commission to appoint a fact finder as provided in Part III; or
- (c) refer all matters remaining in dispute between them that may be provided for in an agreement to,
  - (i) an arbitrator or a board of arbitration for determination as provided in Part IV, or

- (ii) a selector for determination as provided in Part V.

(2) The agreement to refer all matters remaining in dispute between them to an arbitrator or board of arbitration or a selector shall be deemed to include a provision that there will be no strike or lock-out. Effect of choice of procedure

8. The Commission may, in the exercise of its own discretion, at any time assign a person to assist the parties to make or renew an agreement. Where Commission may assign person to assist parties

### PART III

#### FACT FINDING

9. The Commission shall appoint forthwith a person as a fact finder during negotiations to make or renew an agreement if the parties have not referred all matters remaining in dispute between them to an arbitrator or board of arbitration as provided in Part IV or a selector as provided in Part V and, Appointment of fact finder

- (a) one or both of the parties gives notice to the Commission that an impasse has been reached in the negotiations and requests the appointment of a fact finder, and the Commission approves the request;
- (b) the Commission is of the opinion that an impasse has been reached in the negotiations; or
- (c) the agreement that was in operation in respect of the parties expires during negotiations between the parties to make or renew an agreement, and fact finding has not taken place as provided in this Part.

10. The parties to negotiations to make or renew an agreement may, notwithstanding the appointment of a fact finder, Parties may proceed to make agreement or to arbitration or selection procedure

- (a) make or renew the agreement; or
- (b) agree to refer all matters remaining in dispute between them to,
  - (i) an arbitrator or a board of arbitration for determination as provided in Part IV, or
  - (ii) a selector for determination as provided in Part V,



and upon the giving of notice to the Commission by the parties that they have so acted, the appointment of the fact finder is terminated.

Effect of  
choice of  
procedure

**11.** The agreement to refer all matters remaining in dispute between them to an arbitrator or board of arbitration or a selector shall be deemed to include a provision that there will be no strike or lock-out.

Persons  
prohibited as  
fact finder

**12.** No person shall be appointed a fact finder who has a direct pecuniary interest in the matters coming before him or who is acting or has, within the period of six months immediately before the date of his appointment, acted as solicitor, counsel, negotiator, advisor or agent of either of the parties or a board.

Vacancy

**13.** Where a fact finder ceases to act by reason of withdrawal, death or otherwise before submitting his report to the Commission, the Commission shall appoint another person in his stead and such person shall commence the work of the fact finder *de novo*.

Notice of  
appointment  
of fact  
finder

**14.** Where the Commission appoints a fact finder, the Commission shall give written notice to each of the parties of the appointment of and the name and address of the fact finder.

Notice of  
matters  
agreed upon  
and matters  
in dispute

**15.—(1)** Within seven days after the receipt of notice from the Commission of the appointment of the fact finder, each party shall give written notice to the fact finder and to the other party setting out all the matters that the parties have agreed upon for inclusion in an agreement and all the matters remaining in dispute between the parties.

Where  
notice  
not given

**(2)** Where a party fails to comply with subsection 1, the fact finder may make a determination of the matters mentioned in subsection 1 and may then proceed pursuant to this Part.

Duty of  
fact finder

**16.—(1)** It is the duty of a fact finder to confer with the parties and to inquire into, ascertain and make a report setting out the matters agreed upon by the parties for inclusion in an agreement and the matters remaining in dispute between the parties.

What report  
may contain

**(2)** A fact finder may, in his report, include his findings in respect of any matter that he considers relevant to the making of an agreement between the parties and recommend terms of settlement of the matters remaining in dispute between the parties.



**17.** In inquiring into and ascertaining the matters remaining in dispute between the parties, the fact finder may inquire into and consider any matter that the fact finder considers relevant to the making of an agreement between the parties including, without limiting the foregoing, Matters that may be considered by fact finder

- (a) the conditions of employment in occupations outside the teaching sector;
- (b) the effect of geographic or other local factors on the terms and conditions of employment;
- (c) the cost to the employers of the proposal of either party;
- (d) the interests and welfare of the public.

**18.** The fact finder shall determine his own procedure under guidelines established by the Commission and, where the fact finder requests information from a party, the party shall, acting in good faith, provide the fact finder with full and complete information. Procedure of fact finder

**19.** The fact finder shall submit his report to the Commission within thirty days after the date of his appointment or within such longer period of time as the Commission may direct and the Commission shall forthwith give a copy of the report to each of the parties. Submission of report of fact finder

**20.** The report of the fact finder is not binding on the parties but is made for the advice and guidance of the parties and upon receipt of the report the parties shall endeavour, in good faith, to make an agreement or to renew the agreement, as the case may be. Report not binding

**21.**—(1) Where the Commission has given a copy of the report of the fact finder to each of the parties and the Commission is of the opinion that the parties will or are likely to benefit from assistance, the Commission may assign a person to assist the parties to make or renew, as the case may be, the agreement. Assignment of assistance

(2) Where the Commission has given a copy of the report of the fact finder to each of the parties and both of the parties request assistance from the Commission, the Commission shall assign a person to assist the parties to make or renew, as the case may be, the agreement. Idem

**22.**—(1) If the parties make or renew, as the case may be, an agreement within fifteen days after the Commission has Where report confidential

given a copy of the report to each of the parties, the report shall not be made public by the Commission, either of the parties or by any person.

Release of  
report

(2) If the parties do not make an agreement, or renew the agreement, as the case may be, within the period of time specified in subsection 1, the Commission shall make public the report of the fact finder.

Deferring of  
report

(3) Notwithstanding subsections 1 and 2, where both parties agree and the Commission approves, the Commission may defer making public the report of the fact finder for an additional period of not more than five days.

Parties  
may agree  
to refer  
matters in  
dispute

**23.**—(1) If the parties do not make or renew, as the case may be, an agreement within fifteen days after the Commission has given a copy of the report of the fact finder to each of the parties, the parties may agree to refer all matters in dispute between them that may be provided for in an agreement to,

(a) an arbitrator or a board of arbitration for determination as provided in Part IV; or

(b) a selector for determination as provided in Part V.

Effect of  
choice of  
procedure

(2) The agreement to refer all matters remaining in dispute between them to an arbitrator or board of arbitration or a selector shall be deemed to include a provision that there will be no strike or lock-out.

## PART IV

### VOLUNTARY BINDING ARBITRATION

Parties to  
give notice to  
Commission  
where  
arbitration  
agreed  
upon

**24.**—(1) Where the parties agree to refer all matters remaining in dispute between them that may be provided for in an agreement to an arbitrator or a board of arbitration, the parties shall jointly give written notice to the Commission that they have so agreed and the notice shall state,

(a) that the parties agree to refer the matters to an arbitrator and,

(i) the date of appointment and the name and address of the arbitrator, or

(ii) that the parties have not appointed the arbitrator and that the parties request the Commission to appoint the arbitrator; or

(b) that the parties agree to refer the matters to a board of arbitration and,

- (i) that the parties have each appointed a person as a member of the board of arbitration and shall set out the names and addresses of the two members so appointed, or
- (ii) that both of the parties or one of them, as the case may be, has not appointed a person as a member of the board of arbitration and that the parties request the Commission to appoint the members or member, as the case may be, of the board.

(2) Except as provided in section 50, a party shall not withdraw from arbitration proceedings under this Part after notice is given to the Commission in accordance with subsection 1. Party not to withdraw

(3) Where the parties, in the notice mentioned in subsection 1, request the Commission to appoint the arbitrator or the members or one of the members of the board of arbitration, the Commission shall make the appointment or appointments and shall forthwith thereafter give notice thereof to the parties setting out the name and address of the appointee or the names and addresses of the appointees, as the case may be, together with the date of the appointment or appointments. Where appointments made by Commission

(4) Where the parties agree to refer all matters remaining in dispute between them to a board of arbitration, the two members of the board of arbitration shall, within ten days after the giving of notice of their appointment by the parties or by the Commission, as the case may be, appoint a third person to be chairman of the board of arbitration and the chairman shall forthwith give written notice to the Commission of his appointment. Appointment of chairman by members

(5) Where the two members of the board of arbitration are unable to appoint or to agree on the appointment of the chairman of the board of arbitration within the period of time set out in subsection 4, the Commission shall appoint the chairman and shall give notice of the appointment to the two members and to the parties and the notice shall set out the name and address of the person appointed and the date of the appointment. Where Commission to appoint chairman

**25.** No person shall be appointed an arbitrator or member or chairman of a board of arbitration who has a direct pecuniary interest in the matters coming before him or who is acting or has, within the period of six months immediately before the date of his appointment, acted as solicitor, counsel, negotiator, advisor or agent of either of the parties or a board. Persons prohibited as arbitrator or members or chairman of board of arbitration

Vacancy

**26.—**(1) Where a member of a board of arbitration is unable to enter on or to carry on his duties so as to enable a decision to be rendered within the period of time required by subsection 2 or ceases to act by reason of withdrawal or death before the board of arbitration has completed its work, a replacement shall be appointed by the party that appointed the member, or failing such appointment, by the Commission and the board of arbitration shall continue to function as if such member were a member of the board of arbitration from the beginning.

Where chairman  
unable to act

(2) Where the chairman of a board of arbitration is unable to enter on or to carry on his duties so as to enable a decision to be rendered within sixty days after his appointment or within such longer period of time as may be provided in writing by the board of arbitration and consented to by the Commission or ceases to act by reason of withdrawal or death, the Commission shall give notice thereof to the members of the board of arbitration who shall, within seven days of the giving of the notice, appoint a person to be the chairman and if the appointment is not so made by the members it shall be made by the Commission, and after the chairman is appointed the arbitration shall begin *de novo*.

Where  
arbitrator  
unable to  
act

(3) Where an arbitrator is unable to enter on or to carry on his duties so as to enable a decision to be rendered within sixty days after his appointment or within such longer period of time as may be provided in writing by the arbitrator and consented to by the Commission or ceases to act by reason of withdrawal or death, the Commission shall give notice thereof to the parties who shall, within seven days of the giving of the notice, appoint a person to be the arbitrator and if the appointment is not so made it shall be made by the Commission and after the arbitrator is appointed the arbitration shall begin *de novo*.

Notice of  
matters  
agreed upon  
and matters  
in dispute

**27.** Within seven days after the giving of notice that the arbitrator or the chairman of the board of arbitration, as the case may be, has been appointed, each party shall give written notice to the arbitrator or chairman and to the other party setting out all the matters that the parties have agreed upon for inclusion in an agreement and all the matters remaining in dispute between the parties.

Procedure

**28.—**(1) The arbitrator or board of arbitration shall determine his or its own procedure but shall give full opportunity to the parties to present their evidence and make their submissions.

Idem

(2) If the members of a board of arbitration are unable to agree among themselves on matters of procedure or as to the admissibility of evidence, the decision of the chairman governs.



(3) The decision of a majority of a board of arbitration <sup>Decision</sup> is the decision of the board, but if there is no majority, the decision of the chairman is the decision of the board.

**29.**—(1) The arbitrator or board of arbitration has power, <sup>Powers of arbitrator or board of arbitration</sup>

(a) to summon any person,

(i) to give oral or written evidence on oath or affirmation to the arbitrator or board of arbitration, or

(ii) to produce in evidence for the arbitrator or board of arbitration such documents and other things as the arbitrator or board of arbitration may specify;

(b) to administer oaths and affirmations;

(c) to accept for or exclude from consideration any oral testimony, document or other thing, whether admissible in a court of law or not.

(2) Where any person without lawful excuse,

<sup>Stated case for contempt for failure to attend, etc.</sup>

(a) on being duly summoned under subsection 1 as a witness before the arbitrator or board of arbitration, as the case may be, makes default in so attending;

(b) being in attendance as a witness before the arbitrator or board of arbitration, as the case may be, refuses to take an oath or to make an affirmation legally required by the arbitrator or board of arbitration to be taken or made, or to produce any document or thing in his power or control legally required by the arbitrator or board of arbitration to be produced to him or it, or to answer any question to which the arbitrator or board of arbitration may legally require an answer; or

(c) does any other thing that would, if the arbitrator or board of arbitration had been a court of law having power to commit for contempt, have been contempt of that court,

the arbitrator or board of arbitration may state a case to the Divisional Court setting out the facts and that court may, on the application of the arbitrator or board of arbitration, inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person

and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court.

Duty of arbitrator or board of arbitration

**30.**—(1) The arbitrator or board of arbitration shall inquire into, consider and decide on all matters remaining in dispute between the parties.

Matters that may be considered by arbitrator or board of arbitration

(2) In the conduct of proceedings before him or it and in reaching a decision in respect of a matter in dispute, the arbitrator or board of arbitration may inquire into and consider any matter that the arbitrator or board of arbitration considers relevant to the making of an agreement between the parties.

Time for report of arbitrator or board of arbitration

**31.**—(1) The arbitrator or board of arbitration shall complete the consideration of all matters in dispute between the parties and shall report in writing his or its decision on the matters to the parties and to the Commission within sixty days after the giving of notice of the appointment of the arbitrator or of the appointment of the chairman of the board of arbitration, as the case may be, or within such longer period of time as may be provided in writing by the arbitrator or board of arbitration and consented to by the Commission.

Effect of decision

(2) The decision of the arbitrator or board of arbitration is binding upon the parties and they shall comply in good faith with the decision.

Reference back to arbitrator or board of arbitration

(3) The arbitrator or board of arbitration may, upon application by either party to a decision within ten days after the release of the decision, subject to affording the parties the opportunity to make representations thereupon to the arbitrator or board of arbitration amend, alter or vary the decision where it is shown to the satisfaction of the arbitrator or board of arbitration that it has failed to deal with any matter in dispute referred to it or that an error is apparent on the face of the decision.

Preparation and execution of documents

**32.**—(1) Within thirty days after receipt by the parties of the report of the arbitrator or board of arbitration, as the case may be, the parties shall prepare a document giving effect to all matters agreed upon by the parties and the decision of the arbitrator or board of arbitration and shall execute the document and thereupon it constitutes an agreement.

Where arbitrator or board of arbitration to prepare document

(2) If the parties fail to execute the document within the period of time mentioned in subsection 1, the arbitrator or



board of arbitration, as the case may be, shall prepare the document and submit it to the parties and shall fix the time within which and the place where the parties shall execute the document.

(3) If the parties or either of them fail to execute the document within the time fixed by the arbitrator or the board of arbitration, the document shall be deemed to be in effect as though it had been executed by the parties and the document thereupon constitutes an agreement. Failure to execute document

## PART V

### FINAL OFFER SELECTION

**33.**—(1) Where the parties agree to refer all matters remaining in dispute between them that may be provided for in an agreement to a selector, the parties shall jointly give written notice to the Commission that they have so agreed and the notice shall state that the parties agree to refer the matters to a selector and, Parties to give notice to Commission where selection agreed upon

(a) the date of appointment and the name and address of the selector; or

(b) that the parties have not appointed the selector and that the parties request the Commission to appoint the selector.

(2) The parties shall, together with the notice mentioned in subsection 1, give to the Commission a written statement signed by the parties setting out that neither party will withdraw from the proceedings after the final offers of the parties have been submitted to the selector and that the decision of the selector will be accepted by the parties as binding upon them. Statement by parties

(3) Except as provided in section 50, where the parties give to the Commission a written statement in accordance with subsection 2, a party shall not withdraw from the proceedings after the final offer of either of the parties has been submitted to the selector. Party not to withdraw

(4) Where the parties request the Commission to appoint the selector, the Commission shall make the appointment and give notice of the appointment of the selector to the parties and the notice shall set out the name and address of the person appointed and the date of the appointment. Where Commission appoints selector

**34.** No person shall be appointed a selector who has a direct pecuniary interest in the matters coming before him or who is acting or has, within the period of six months immediately before the date of his appointment, acted as solicitor, counsel, negotiator, advisor or agent of either of the parties or a board. Persons prohibited as selector

Selector  
unable to  
act

**35.** Where a selector is unable to enter on or to carry on his duties so as to enable a decision to be rendered within the time specified by this Act or such longer period of time as may be provided in writing by the selector and consented to by the Commission or ceases to act by reason of withdrawal or death, the Commission shall give notice thereof to the parties who shall, within seven days of the giving of the notice, appoint a person to be the selector, and if the appointment is not so made by the parties it shall be made by the Commission, and after the selector is appointed, the selection procedure shall begin *de novo*.

Notice of  
matters  
agreed upon  
and matters  
in dispute

**36.** Within seven days after the giving of notice that the selector has been appointed, the parties shall jointly give written notice to the selector setting out all the matters that the parties have agreed upon for inclusion in an agreement and all the matters remaining in dispute between the parties.

Notice of  
final offer

**37.** Within fifteen days after the giving of notice that the selector has been appointed, each party shall give written notice to the selector setting out the final offer of the party on all the matters remaining in dispute between the parties and may submit with the notice a written statement in support of the final offer set out in the notice.

Final offer of  
opposite  
party

**38.** Upon receiving the notices of the parties setting out the final offer of each party, the selector shall forthwith give to each party a copy of the notice setting out the final offer of the opposite party on all the matters remaining in dispute between the parties together with a copy of the statement, if any, of the opposite party submitted in support of the final offer of the opposite party.

Written  
response

**39.** Each party may, within ten days after being given a copy of the final offer and supporting statement, if any, of the opposite party, give to the selector a written reply and the selector shall forthwith give a copy of the reply of each party to the opposite party.

Hearing

**40.** Within fifteen days after each party has been given a copy of the final offer and supporting statement, if any, of the opposite party, or within such longer period of time as may be provided in writing by the selector and consented to by the Commission, the selector shall hold a hearing in respect of the matters remaining in dispute between the parties and may, before making a selection, hold a further hearing or hearings.

**41.** The parties may agree to dispense with a hearing by the selector and in such case may jointly give written notice to the selector that they have so agreed, and the selector, upon receipt of the notice, shall not hold a hearing but shall proceed to his decision. Parties may dispense with hearing

**42.—(1)** The selector shall determine his own procedure but, in holding a hearing, shall give full opportunity to the parties to present their evidence and make their submissions. Procedure

(2) The selector has power, Powers of selector

(a) to summon any person,

(i) to give oral or written evidence on oath or affirmation to the selector, or

(ii) to produce in evidence for the selector such documents and other things as the selector may specify;

(b) to administer oaths and affirmations;

(c) to accept for or exclude from consideration any oral testimony, document or other thing, whether admissible in a court of law or not.

(3) Where any person without lawful excuse, Contempt proceedings

(a) on being duly summoned under subsection 2 as a witness before the selector makes default in so attending;

(b) being in attendance as a witness before the selector refuses to take an oath or to make an affirmation legally required by the selector to be taken or made, or to produce any document or thing in his power or control legally required by the selector to be produced to him, or to answer any question to which the selector may legally require an answer; or

(c) does any other thing that would, if the selector had been a court of law having power to commit for contempt, have been contempt of that court,

the selector may state a case to the Divisional Court setting out the facts and that court may, on the application of the selector, inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be

offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court.

Selection  
of final  
offer

**43.** The selector shall, within fifteen days after the conclusion of the hearing or hearings or within fifteen days after the giving of the notice by the parties that they have agreed to dispense with a hearing, as the case may be, or within such longer period of time as may be provided in writing by the selector and consented to by the Commission, make a decision selecting all of one of the final offers on all matters remaining in dispute between the parties given to the selector by one or the other of the parties.

Effect of  
decision

**44.** The decision of the selector is binding upon the parties and they shall comply in good faith with the decision.

Preparation  
and  
execution of  
document by  
parties

**45.—(1)** Within thirty days after receipt of notice of the decision of the selector, the parties shall prepare a document giving effect to all matters agreed upon by the parties and the decision of the selector and shall execute the document and thereupon it constitutes an agreement.

Where  
selector to  
prepare  
document

(2) If the parties fail to execute the document within the period of time mentioned in subsection 1, the selector shall prepare the document and submit it to the parties and shall fix the time within which and the place where the parties shall execute the document.

Failure to  
execute  
document

(3) If the parties or either of them fail to execute the document within the time fixed by the selector, the document shall be deemed to be in effect as though it had been executed by the parties and the document thereupon constitutes an agreement.

## PART VI

### AGREEMENTS

Term of  
agreement

**46.—(1)** Every agreement shall,

- (a) provide for a term of operation of not less than one year;
- (b) state that it is effective on and after the 1st day of September in the year in which it is to come into operation; and
- (c) state that it expires on the 31st day of August in the year in which it ceases to operate.



(2) Notwithstanding clause *b* of subsection 1, an agree-<sup>Exception</sup>ment covering the support staff bargaining unit that expires on the 31st day of March, 1976, may be renewed effective the 1st day of April, 1976.

**47.**—(1) Every agreement shall provide for the final and binding settlement by arbitration of all differences between an employer and the employee organization arising from the interpretation, application, administration or alleged contravention of the agreement including any question as to whether a matter is arbitrable.<sup>Arbitration provision</sup>

(2) Unless an agreement otherwise provides for the final<sup>Idem</sup> and binding settlement of all differences between an employer and the employee organization arising from the interpretation, application, administration or alleged contravention of the agreement, the agreement is deemed to include the following provision:

Where a difference arises between an employer and the employee organization relating to the interpretation, application or administration of this agreement, or where an allegation is made that this agreement has been contravened, including any question as to whether the matter is arbitrable, either the employer or the employee organization may, after exhausting any grievance procedure established by this agreement, notify the other in writing of its desire to submit the difference or allegation to arbitration and the notice shall contain the name of its appointee to an arbitration board. The recipient of the notice shall within five days inform the other either that it accepts the other's appointee as a single arbitrator or inform the other of the name of its appointee to the arbitration board. Where two appointees are so selected they shall, within five days of the appointment of the second of them, appoint a third person who shall be the chairman. If the recipient of the notice fails to appoint an arbitrator or if the two appointees fail to agree upon a chairman within the time limited, the appointment shall be made by the Commission upon the request of either the employer or the employee organization. The single arbitrator or the arbitration board, as the case may be, shall hear and determine the difference or allegation and shall issue a decision and the decision is final and binding upon the employer and the employee organization and upon any employee affected by it. The decision of a majority is the decision of the arbitration board, but, if there is no majority, the decision of the chairman governs. The arbitrator or arbitration board, as the case may be,

shall not by his or its decision add to, delete from, modify or otherwise amend the provisions of this agreement.

Powers of arbitrator or board of arbitration

(3) An arbitrator or chairman of an arbitration board, as the case may be, referred to in this section, has the same powers as an arbitrator or board of arbitration under subsection 1 of section 29.

Penalty where employee disciplined, etc.

(4) Where an arbitrator or board of arbitration referred to in this section determines that a disciplinary penalty or dismissal of an employee is excessive, it may substitute such other penalty for the discipline or dismissal as it considers just and reasonable in all the circumstances.

Decision

(5) The decision of an arbitrator or of an arbitration board is final and binding upon the employer, employee organization and upon the employees covered by the agreement who are affected by the decision, and such employer, employee organization and employees shall do or refrain from doing anything required of them by the decision.

Enforcement

(6) Where an employer, employee organization or an employee has failed to comply with any of the terms of the decision of an arbitrator or arbitration board, any employer, employee organization or employee affected by the decision may, after the expiration of fourteen days from the date of the release of the decision or the date provided in the decision for compliance, whichever is later, file in the office of the Registrar of the Supreme Court a copy of the decision, exclusive of the reasons therefor, in the prescribed form, whereupon the decision shall be entered in the same way as a judgment or order of that court and is enforceable as such.

Remuneration and expenses

(7) The employer and employee organization shall each pay one-half the remuneration and expenses of the arbitrator or chairman of the board of arbitration referred to in this section and shall pay the remuneration and expenses of the person it appoints to such an arbitration board.

Application of R.S.O. 1970, c. 25, 1971, c. 47

(8) *The Arbitrations Act* and *The Statutory Powers Procedure Act, 1971* do not apply to arbitration proceedings under this section.

Provision against strikes and lock-outs

**48.—**(1) Every agreement shall provide that there will be no strike or lock-out during the term of the agreement or of any renewal of the agreement.

Statutory provision

(2) If an agreement does not contain the provision mentioned in subsection 1, the agreement shall be deemed to contain the following provision:



“There shall be no strike or lock-out during the term of this agreement or of any renewal of this agreement”.

**49.**—(1) No agreement, decision of an arbitrator, board of arbitration or selector shall contain any term that would require either directly or indirectly for its implementation the enactment or amendment of legislation. Agreement not to require legislative implementation

(2) Where a conflict appears between any provision of an agreement and any provision of any legislation, the provision of the legislation prevails. Conflict

**50.** Where the parties agree on all the matters to be included in an agreement, whether during or at the conclusion of negotiations or other proceedings under this Act, they shall prepare a document incorporating all the matters agreed upon and shall execute the document and the document thereupon constitutes an agreement. Where agreement reached

**51.** Upon the execution of an agreement, each party to the agreement shall forthwith give written notice thereof, together with a copy of the agreement, to the Commission. Notice to Commission of execution of agreement

**52.**—(1) An agreement is binding upon the Council, the employers and the employee organization that is a party to it and upon the employees in the bargaining unit covered by the agreement. Binding effect of agreement

(2) Subsection 1 applies to the agreement covering the academic staff bargaining unit and the agreement covering the support staff bargaining unit in operation upon the coming into force of this Act. Idem

**53.** Every agreement shall be deemed to provide that the employee organization that is a party thereto is recognized as the exclusive bargaining agent for the bargaining unit to which the agreement applies. Recognition provision

**54.**—(1) The parties to an agreement may provide for the payment by the employees of dues or contributions to the employee organization. Payment of dues to employee organization

(2) Where the Ontario Labour Relations Board is satisfied that an employee because of his religious convictions or belief objects to paying dues or contributions to an employee organization, the Ontario Labour Relations Board shall order that the provisions of the agreement pertaining thereto do not apply to such employee and that the employee is not required to pay dues or contributions to the employee Where objection to dues because of religious belief

1970-71,  
c. 63 (Can.)

organization, provided that amounts equivalent thereto are remitted by the employer to a charitable organization mutually agreed upon by the employer and the employee organization and failing such agreement then to such charitable organization registered as such under Part I of the *Income Tax Act* (Canada) as may be designated by the Ontario Labour Relations Board.

Requiring  
membership  
in employee  
organization  
prohibited

(3) No agreement shall contain a provision which would require, as a condition of employment, membership in the employee organization.

Working  
conditions  
may not be  
altered

**55.**—(1) Where notice has been given by either party to an agreement under section 5, except as altered by an agreement in writing by the parties, the terms and provisions of the agreement then in operation shall continue to operate until there is a right to strike or lock-out as provided in this Act.

Idem

(2) Where notice has been given by the employee organization under section 71, the conditions then in effect applicable to or binding upon the Council, the employer, the employee organization or the employees which are subject to negotiations within the meaning of this Act shall not be altered without the consent of the Council, the employer, the employee organization or the employees, as the case may be, until there is a right to strike or lock-out as provided in this Act.

## PART VII

### COLLEGE RELATIONS COMMISSION

Commission  
established

**56.**—(1) There shall be a commission to be known as the College Relations Commission composed of five persons who shall be appointed by the Lieutenant Governor in Council.

Chairman  
and vice-  
chairman

(2) The Lieutenant Governor in Council shall designate a chairman and a vice-chairman from among the members of the Commission.

Acting  
chairman

(3) In the case of the absence or inability to act of the chairman or of there being a vacancy in the office of the chairman, the vice-chairman shall act as and have all the powers of the chairman, and, in the absence of the chairman and vice-chairman from any meeting of the Commission, the members of the Commission present at the meeting shall appoint an acting chairman who shall act as and have all the powers of the chairman during the meeting.

(4) The members of the Commission shall be appointed <sup>Term of office</sup> for a term of one, two or three years so that as nearly as possible one-third of the members shall retire each year.

(5) Every vacancy on the Commission caused by the <sup>Vacancy</sup> death, resignation or incapacity of a member may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member.

(6) Each of the members of the Commission is eligible <sup>Re-appointment</sup> for reappointment upon the expiration of his term of office.

(7) Three members of the Commission constitute a quorum <sup>Quorum</sup> and are sufficient for the exercise of all the authority of the Commission.

(8) The powers of the Commission shall be exercised by <sup>Exercising powers</sup> resolution and the Commission may pass resolutions governing the calling of and the proceedings at meetings and specifying the powers and duties of employees of the Commission and generally dealing with the carrying out of its duties.

(9) The members of the Commission shall be paid such <sup>Remuneration</sup> remuneration and expenses as are determined by the Lieutenant Governor in Council.

(10) Subject to the approval of the Lieutenant Governor <sup>Officers, staff, etc.</sup> in Council, the Commission may,

(a) establish job classifications, salary ranges and terms and conditions of employment for its employees; and

(b) appoint and pay such employees as are considered proper.

(11) *The Public Service Superannuation Act* applies to the <sup>R.S.O. 1970, c. 387, applicable</sup> permanent employees of the Commission as though the Commission had been designated by the Lieutenant Governor in Council under section 27 of that Act.

(12) The Commission may engage persons other than <sup>Professional and other assistance</sup> those employed pursuant to subsection 10 to provide professional, technical or other assistance to or on behalf of the Commission, and may prescribe the terms of engagement and provide for payment of the remuneration and expenses of such persons.

**57.—(1)** It is the duty of the Commission,

- (a) to carry out the duties imposed on it by this Act and such other functions as may, in the opinion of the Commission, be necessary to carry out the intent and purpose of this Act;
- (b) to maintain an awareness of negotiations between the parties;
- (c) to compile statistical information on the supply, distribution, professional activities and salaries of employees;
- (d) to provide such assistance to parties as may facilitate the making or renewing of agreements;
- (e) to select and, where necessary, to train persons who may act as mediators, fact finders, arbitrators or selectors;
- (f) to determine, at the request of either party or in the exercise of its discretion, whether or not either of the parties is or was negotiating in good faith and making every reasonable effort to make or renew an agreement;
- (g) to determine the manner of conducting and to supervise votes by secret ballot pursuant to this Act; and
- (h) to advise the Lieutenant Governor in Council when, in the opinion of the Commission, the continuance of a strike, lock-out or closing of a college or colleges will place in jeopardy the successful completion of courses of study by the students affected by the strike, lock-out or closing of a college or colleges.

(2) The Commission may request an employer to provide information necessary to compile the statistical information referred to in clause *c* of subsection 1 and an employer shall comply with such a request within a reasonable period of time.

(3) The Commission shall annually prepare a report on the affairs of the Commission for the preceding year and the report shall be tabled in the Legislature.

**58.** No member of, or person employed or engaged by, the Commission shall be required to give testimony in any proceeding under this Act or before a court or tribunal with regard to information obtained by him in the discharge of his duties as a member of or person employed or engaged by the Commission. Testimony by  
member of  
Commission

**59.** The moneys required for the purposes of the Commission shall, until the 31st day of March, 1976, and, subject to the approval of the Lieutenant Governor in Council, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature. Moneys

## PART VIII

### STRIKES AND LOCK-OUTS

**60.—**(1) No employee shall strike unless, Strike

- (a) there is no agreement in operation between the Council and the employee organization that represents the employee;
- (b) notice of desire to negotiate to make or renew an agreement, has been given by either party;
- (c) all the matters remaining in dispute between the Council and the employee organization that represents the employee have been referred to a fact finder and fifteen days have elapsed after the Commission has made public the report of the fact finder;
- (d) the offer of the Council in respect of all matters remaining in dispute between the parties last received by the employee organization that represents the employee is submitted to and rejected by the employees in the bargaining unit by a vote by secret ballot conducted under the supervision of and in the manner determined by the Commission;
- (e) the employees in the bargaining unit have voted, not earlier than the vote referred to in clause *d* and not before the end of the fifteen-day period referred to in clause *c*, in favour of a strike by a vote by secret ballot conducted under the supervision of and in the manner determined by the Commission; and



- (f) after a vote in favour of a strike in accordance with clause *e*, the employee organization that represents the employee gives the Council and the employer written notice of the strike and of the date on which the strike will commence at least five days before the commencement of the strike.

Interim  
provision

(2) Where an agreement is in operation upon the coming into force of this Act pursuant to section 52, no employee shall strike unless the requirements of subsection 1 are complied with.

Where  
employees  
deemed to  
take part  
in strike

(3) Where the employee organization gives notice of a lawful strike, all employees in the bargaining unit concerned shall be deemed to be taking part in the strike from the date on which the strike is to commence, as set out in the written notice, to the date on which the employee organization gives written notice to the Council and the employer that the strike is ended, and no employee shall be paid salary or benefits during such period.

Resumption  
of strike

(4) Where a strike is ended without an agreement coming into effect, no employee shall resume striking or engage in a new strike except after the provisions of clauses *d*, *e* and *f* of subsection 1 have again been complied with in respect of such resumption or new strike.

Unlawful  
strike

**61.**—(1) No employee organization shall call or authorize or threaten to call or authorize an unlawful strike.

Idem

(2) No officer, official, or agent of an employee organization shall counsel, procure, support or encourage an unlawful strike or threaten an unlawful strike.

Unlawful  
lock-out

**62.**—(1) The Council shall not and no employer shall call or authorize or threaten to call or authorize an unlawful lock-out.

Idem

(2) No officer, official, or agent of the Council or of an employer shall counsel, procure, support or encourage an unlawful lock-out or threaten an unlawful lock-out.

Declaration  
of unlawful  
strike

**63.**—(1) Where the employee organization calls or authorizes a strike or employees engage in a strike that the Council or an employer alleges is unlawful, the Council or the employer may apply to the Ontario Labour Relations Board for a declaration that the strike is unlawful, and the Board may make the declaration.

Declaration  
of unlawful  
lock-out

(2) Where the Council or employer calls or authorizes a lock-out of employees that the employee organization con-



cerned alleges is unlawful, such employee organization may apply to the Ontario Labour Relations Board for a declaration that the lock-out is unlawful, and the Board may make the declaration.

(3) Where the Ontario Labour Relations Board makes a <sup>Direction by O.L.R.B.</sup> declaration under subsection 1 or 2, the Board in its discretion may, in addition, direct what action if any a person, employee, employee organization, Council or employer and their officers, officials or agents shall do or refrain from doing with respect to the unlawful strike or unlawful lock-out.

(4) The Ontario Labour Relations Board shall file in the <sup>Enforcement of direction by S.C.O.</sup> office of the Registrar of the Supreme Court a copy of a direction made under subsection 3, exclusive of the reasons therefor, whereupon the direction shall be entered in the same way as a judgment or order of the court and is enforceable as such.

**64.—**(1) No employer shall lock-out employees unless, <sup>Lock-out</sup>

- (a) there is no agreement in operation between the Council and the employee organization that represents the employees;
- (b) notice of desire to negotiate or make or renew an agreement has been given by the Council to the employee organization that represents the employees or by the employee organization that represents the employees to the Council and the Council has negotiated in good faith and made every reasonable effort to make or renew an agreement;
- (c) all the matters remaining in dispute between the Council and the employee organization that represents the employees have been referred to a fact finder and thirty days have elapsed after the Commission has given a copy of the report of the fact finder to each of the parties;
- (d) the Council on behalf of all employers gives the employee organization that represents the employees written notice of the lock-out and of the date on which the lock-out will commence at least five days before the commencement of the lock-out.

(2) Where a lawful strike is declared or authorized or <sup>Closing of college</sup> employees engage in a lawful strike, the employer may, with the approval of the Council, close a college or any part thereof where the employer is of the opinion that,

- (a) the safety of students enrolled in the college may be endangered;
- (b) the college buildings or the equipment or supplies therein may not be adequately protected during the strike; or
- (c) the strike will substantially interfere with the operation of the college,

and may keep the college or any part thereof closed until the employee organization that called or authorized the strike or that represents the employees engaged in the strike gives written notice to the Council and the employer that the strike is ended.

Where  
lock-out  
deemed

(3) Where the Council gives notice of a lawful lock-out, all employers shall be deemed to be taking part in the lock-out from the date on which the lock-out is to commence set out in the written notice and an employee in the bargaining unit concerned is not entitled to be paid his salary and benefits in respect of the days on which he is prevented from performing his duty as the result of action by an employer pursuant to subsection 1 or 2.

Continua-  
tion of  
employment

**65.** For the purposes of this Act, no person shall be deemed to have ceased to be an employee by reason only of his ceasing to work for his employer as the result of a lawful lock-out or lawful strike or by reason only of his being dismissed by his employer contrary to this Act or to a collective agreement.

## PART IX

### REPRESENTATION RIGHTS

Membership  
in employee  
organization

**66.** Every person is free to join an employee organization of his own choice and to participate in its lawful activities.

Application  
for  
bargaining  
rights

**67.—**(1) Where an agreement is for a term of not more than three years, an employee organization may apply to the Ontario Labour Relations Board for bargaining rights as bargaining agent of the employees in the bargaining unit only during the month of December immediately prior to the termination date of the agreement.

Idem

(2) Where an agreement is for a term of more than three years, an employee organization may apply to the Ontario

Labour Relations Board for bargaining rights as bargaining agent of the employees in the bargaining unit only during the month of December,

- (a) in the third year of operation of the agreement; or
- (b) in each year of operation of the agreement after the third year.

**68.**—(1) The bargaining units set out in the Schedules are <sup>Bargaining units</sup> the units for collective bargaining purposes under this Act.

(2) The employee organization that is party to the agreement covering the academic staff bargaining unit or the support staff bargaining unit upon the coming into force of this Act shall be deemed to have been granted bargaining rights <sup>Employee organization that has bargaining rights</sup> in relation to such bargaining unit upon the coming into force of this Act.

**69.**—(1) Upon an application for bargaining rights by <sup>Representation vote</sup> an employee organization claiming not less than 35 per cent of the employees in the appropriate bargaining unit as members, the Ontario Labour Relations Board upon satisfying itself that not less than 35 per cent of such employees are members of the employee organization shall direct that a representation vote be taken.

(2) If, on the taking of a representation vote, more than <sup>Bargaining rights</sup> 50 per cent of the ballots cast are in favour of the employee organization, the Ontario Labour Relations Board shall grant bargaining rights to the employee organization as the bargaining agent of the employees in the bargaining unit.

**70.** The Ontario Labour Relations Board shall not grant bargaining rights to any employee organization in the formation or administration of which there has been or is, in the opinion of the Ontario Labour Relations Board, participation by the Council, or an employer or any person acting on behalf of the Council or an employer of such a nature, as to impair the employee organization's fitness to represent the interest of employees in the bargaining unit. <sup>Where participation by Council or employer</sup>

**71.** Upon being granted bargaining rights under section 69, the employee organization may give the Council written notice of its desire to negotiate with a view to making an agreement. <sup>Notice of desire to negotiate</sup>

**72.**—(1) If an employee organization does not enter into an agreement with the Council within one year after being granted bargaining rights or fails to give notice of its <sup>Application for termination of representation rights</sup>

intention to bargain as provided under section 71 and no such notice has been given by the Council, the Council or any employee in the bargaining unit concerned may apply to the Ontario Labour Relations Board for a declaration that the employee organization no longer represents the employees in the bargaining unit.

Idem

(2) Any employee in the bargaining unit covered by an agreement may apply to the Ontario Labour Relations Board for a declaration that the employee organization no longer represents the employees in the bargaining unit only during the month of December immediately prior to the termination date of the agreement.

Representation vote

(3) Upon the application under subsection 2, the Ontario Labour Relations Board shall ascertain the number of employees in the bargaining unit at the time the application was made and if a majority of the employees in the bargaining unit have voluntarily signified in writing that they no longer wish to be represented by the employee organization, the Ontario Labour Relations Board shall conduct a representation vote to determine whether or not the employees desire that the right of the employee organization to bargain on their behalf be terminated.

Result of vote

(4) If, on the taking of the representation vote, more than 50 per cent of the ballots cast are in opposition to the employee organization, the Ontario Labour Relations Board shall declare that the employee organization that was granted bargaining rights or that was or is a party to the agreement, as the case may be, no longer represents the employees in the bargaining unit.

Effect of termination

(5) Upon the Ontario Labour Relations Board declaring that the employee organization no longer represents the employees in the bargaining unit, the employee organization ceases to have such representation rights and any agreement in operation between the employee organization and the Council that is binding upon the employees in the bargaining unit ceases to operate and any decision of an arbitrator, board of arbitration or selector applying to the bargaining unit ceases to have effect.

Termination of rights where employee organization desires or has ceased to act

**73.**—(1) Where the Ontario Labour Relations Board is advised by an employee organization that it wishes to be released of its representation rights in respect of a bargaining unit or where the Ontario Labour Relations Board, upon application by the employer or any employee in a bargaining unit represented by an employee organization, determines that the employee organization has ceased to act



on behalf of the employees, the Ontario Labour Relations Board shall declare that the employee organization no longer represents the employees in the bargaining unit.

(2) Where the Ontario Labour Relations Board is satisfied that an employee organization has obtained representation rights in respect of a bargaining unit by fraud, the Ontario Labour Relations Board shall declare that the employee organization no longer represents the employees in the bargaining unit. Where rights obtained by fraud

(3) Upon the Ontario Labour Relations Board declaring that the employee organization no longer represents the employees in the bargaining unit, the employee organization ceases to have such bargaining rights and any agreement in operation between the employee organization and the Council that is binding upon the employees in the bargaining unit ceases to operate and any decision made by an arbitrator, board of arbitration or selector, applying to the bargaining unit ceases to have effect. Effect of termination

**74.** No person shall attempt at the employee's place of employment to persuade him to become or refrain from becoming a member of an employee organization, except as the Council and an employee organization may otherwise agree. Persuasion at place of work

**75.** Nothing in this Act prohibits any suspension or discontinuance for cause of an employer's operations or the quitting of employment for cause if the suspension, discontinuance or quitting does not constitute a lock-out or strike. Suspension or quitting for cause

**76.—**(1) No person who is acting on behalf of the Council or an employer shall participate in or interfere with the selection, formation or administration of an employee organization or the representation of employees by such an organization, but nothing in this section shall be deemed to deprive the Council or an employer or any person acting on behalf of the Council or an employer of his freedom to express his views so long as he does not use coercion, intimidation, threats, promises or undue influence. Interference with employee organization prohibited

(2) The Council, an employer or any person acting on behalf of an employer shall not, Interference with employees rights prohibited

- (a) refuse to employ or to continue to employ or discriminate against a person with regard to employment or any term or condition of employment because the person is exercising any right under this Act or is or is not a member of an employee organization;

- (b) impose any condition on an appointment or in a contract of employment that seeks to restrain an employee or a person seeking employment from becoming a member of an employee organization or exercising any right under this Act;
- (c) seek by intimidation, by threat of dismissal or by any other kind of threat or by the imposition of a pecuniary or any other penalty or by any other means to compel an employee to become or refrain from becoming or to continue or cease to be a member of an employee organization, or to refrain from exercising any other right under this Act,

but no person shall be deemed to have contravened this subsection by reason of any act or thing done or omitted in relation to a person employed in a managerial or confidential capacity.

Intimidation  
and  
coercion

(3) No person or employee organization shall seek by intimidation or coercion to compel any person to become or refrain from becoming or to continue to be or to cease to be a member of an employee organization or to refrain from exercising any other rights under this Act or from performing any obligations under this Act.

Duty of fair  
representa-  
tion

**77.** An employee organization shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employees, whether members of the employee organization or not.

Inquiry by  
investigator

**78.—(1)** The Ontario Labour Relations Board may appoint an investigator with authority to inquire into a complaint that,

- (a) a person has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act as to his employment, opportunity for employment or conditions of employment;
- (b) a person has been suspended, expelled or penalized in any way contrary to section 80;
- (c) an employee organization, employer or any person or persons has acted in any way contrary to section 77 or 81.

Duties

(2) The investigator shall forthwith inquire into the complaint and endeavour to effect a settlement of the matter.



(3) The investigator shall report the results of his inquiry <sup>Report</sup> and endeavours to the Ontario Labour Relations Board.

(4) Where an investigator is unable to effect a settle- <sup>Inquiry by Board</sup> ment of the matter or where the Ontario Labour Relations Board in its discretion considers it advisable to dispense with an inquiry by an investigator, the Ontario Labour Relations Board may inquire into the complaint and,

- (a) if the Ontario Labour Relations Board is satisfied that the person concerned has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act as to his employment, opportunity for employment or conditions of employment by the Council, employer or by any person or employee organization it shall determine what, if anything, the Council, employer, person or employee organization shall do or refrain from doing with respect thereto, and such determination may include the hiring or reinstatement in employment of the person concerned, with or without compensation or compensation in lieu of hiring or reinstatement for loss of earnings and other employment benefits for which compensation may be assessed against the Council, employer, person or employee organization, jointly or severally, and the Council, employer, person or employee organization shall, notwithstanding the provisions of any agreement, do or abstain from doing anything required of them or any of them by the determination;
- (b) if the Ontario Labour Relations Board is satisfied that the person concerned has been suspended, expelled or penalized in any way contrary to section 80 it shall so declare and thereupon the suspension, expulsion or penalty is void; or
- (c) if the Ontario Labour Relations Board is satisfied that the employee organization, Council, employer, person or employee concerned has acted contrary to section 77 or 81, it shall determine what, if anything, the employee organization, Council, employer, person or employee shall do or refrain from doing with respect thereto, and such determination may include compensation for loss of earnings and other employment benefits and the employee organization, Council, employer, person or employee shall, notwithstanding the provisions of any agreement, do or abstain from doing anything required of them or it.

Effect of  
settlement

(5) Where the matter complained of has been settled, whether through the endeavours of the investigator or otherwise, and the terms of the settlement have been put in writing and signed by the parties or their representatives, the settlement is binding upon the parties, the employee organization, Council, employer, person or employee who have agreed to the settlement and shall be complied with according to its terms and a complaint that the employee organization, Council, employer, person or employee who has agreed to the settlement has not complied with the terms of the settlement shall be deemed to be a complaint under clause *a*, *b* or *c* of subsection 1, as the case may be.

Records of  
employee  
organization

(6) The records of an employee organization relating to membership or any records that may disclose whether a person is or is not a member of an employee organization or does or does not desire to be represented by an employee organization produced in a proceeding before the Ontario Labour Relations Board is for the exclusive use of the Ontario Labour Relations Board and its officers and shall not, except with the consent of the Ontario Labour Relations Board, be disclosed and no person shall, except with the consent of the Ontario Labour Relations Board be compelled to disclose whether a person is or is not a member of an employee organization or does or does not desire to be represented by an employee organization.

Causing  
unlawful  
strikes

**79.** No person shall do any act if he knows or ought to know that, as a probable and reasonable consequence of the act, another person or persons will take any action contrary to section 60.

Refusal to  
engage in  
unlawful  
strike

**80.** No employee organization shall suspend, expel or penalize in any way a member because he has refused to engage in or to continue to engage in any action contrary to section 60.

Protection  
of witnesses  
rights

**81.—(1)** The Council or an employer or any person acting on behalf of the Council or an employer shall not,

- (a) refuse to employ or continue to employ a person;
- (b) threaten dismissal or otherwise threaten a person;
- (c) discriminate against a person in regard to employment or a term or condition of employment; or
- (d) intimidate or coerce or impose a pecuniary or other penalty on a person,

because of a belief that he may testify in a proceeding under this Act or because he has made or is about to make a disclosure that may be required of him in a proceeding under this Act or because he has made an application or filed a complaint under this Act or because he has participated or is about to participate in a proceeding under this Act.

(2) No employee organization or person acting on behalf <sup>Idem</sup> of an employee organization shall,

- (a) discriminate against a person in regard to employment or a term or condition of employment; or
- (b) intimidate or coerce or impose a pecuniary or other penalty on a person,

because of a belief that he may testify in a proceeding under this Act or because he has made or is about to make a disclosure that may be required of him in a proceeding under this Act or because he has made an application or filed a complaint under this Act or because he has participated or is about to participate in a proceeding under this Act.

**82.** If, in the course of bargaining for an agreement or during the period of operation of an agreement, a question arises as to whether a person is an employee, including a question as to whether a person employed as a chairman, department head, director, foreman or supervisor is employed in a managerial or confidential capacity pursuant to clause *l* of section 1 and the schedules, the question may be referred to the Ontario Labour Relations Board and its decision thereon is final and binding for all purposes. <sup>Whether person employee</sup>

**83.**—(1) The Ontario Labour Relations Board shall exercise such powers and perform such duties as are conferred upon it by this Act and has power, <sup>Powers of Ontario Labour relations Board</sup>

- (a) to enter any premises of an employer where work is being or has been done by the employees or in which an employer carries on business and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person respecting any matter;
- (b) to enter upon the premises of an employer and conduct representation votes during working hours and give such directions in connection with the vote as it considers necessary;

(c) to authorize any person to do anything that the Ontario Labour Relations Board may do under clauses *a* and *b* and to report to the Ontario Labour Relations Board thereon;

(d) to determine the form in which and the time as of which evidence of membership in an employee organization or of objection by employees to representation rights of an employee organization or of signification by employees that they no longer wish to be represented by an employee organization shall be presented to the Ontario Labour Relations Board on an application for representation rights or for a declaration terminating representation rights, and to refuse to accept any evidence of membership or objection or signification that is not presented in the form and as of the time so determined; and

(e) to administer oaths and affirmations.

#### Decisions

(2) The decision of the majority of the members of the Ontario Labour Relations Board present and constituting a quorum is the decision of the Ontario Labour Relations Board, but, if there is no majority, the decision of the chairman or vice-chairman governs.

#### Practice and procedure, etc.

(3) The Ontario Labour Relations Board shall determine its own practice and procedure but shall give full opportunity to the parties to any proceedings to present their evidence and to make their submissions, and the Ontario Labour Relations Board may, subject to the approval of the Lieutenant Governor in Council, make rules governing its practice and procedure and the exercise of its powers and prescribing such forms as are considered advisable.

## PART X

### MISCELLANEOUS

#### Copies of notices to be given to Commission

**84.** Where, under this Act, a party is required to give notice to another party, the party giving the notice shall also within the same time limit, if any, give a copy of the notice to the Commission.

#### Decisions, etc., of Commission and others not subject to review

**85.**—(1) No decision, order, determination, direction, declaration or ruling of the Commission, a fact finder, an arbitrator or board of arbitration, a selector or the Ontario Labour Relations Board shall be questioned or reviewed in any court, and no order shall be made or process entered, or proceedings taken in, any court, whether by way of injunction, declaratory judgments, certiorari, mandamus,



prohibition, quo warranto, application for judicial review or otherwise, to question, review, prohibit or restrain the Commission, fact finder, arbitrator or board of arbitration, selector or the Ontario Labour Relations Board or the proceedings of any of them.

(2) No proceedings under this Act are invalid by reason of any defect of form or any technical irregularity and no such proceedings shall be quashed or set aside if no substantial wrong or miscarriage of justice has occurred. Defects in form, technical irregularities

**86.** Any notice or document required or authorized by this Act to be given shall, Service of notice

- (a) where it is to be given to the Commission, be delivered to the office of the Commission;
- (b) where it is to be given to the Council or an employer, be delivered to the office of the Council or the employer, as the case may require;
- (c) where it is to be given to an employee organization, be delivered to an officer of the employee organization;
- (d) where it is to be given to an arbitrator or selector, be delivered to the arbitrator or selector; and
- (e) where it is to be given to a board of arbitration, be delivered to the chairman.

**87.**—(1) The expenditures incurred by a party in respect of a person appointed or retained by the party for the purpose of making or renewing an agreement shall be borne by the party and all other expenses, including fees for a single arbitrator, a selector or a chairman of a board of arbitration shall be shared equally by the parties and such expenditures and fees shall be paid within sixty days after the agreement or renewal of agreement is executed or is deemed in effect as though it had been executed by the parties. Costs

(2) The fees and expenses, if any, of persons assigned by the Commission to assist parties to make or renew an agreement and of fact finders appointed by the Commission shall be paid by the Commission. Idem

**88.**—(1) Where the Ontario Labour Relations Board so directs, an employee organization shall file with the Ontario Labour Relations Board, within the time prescribed in the direction, a copy of its constitution and by-laws, and a statement signed by its president or secretary setting out the names and addresses of its officers. Officers, constitution, etc.

Duty to  
furnish  
financial  
statements

(2) Every employee organization that represents employees shall upon the request of any employee furnish him, without charge, with a copy of the audited financial statement of its affairs to the end of its last fiscal year certified by its treasurer or other officer responsible for the handling and administration of its funds to be a true copy, and, upon the complaint of any employee that the employee organization has failed to furnish such a statement to him, the Ontario Labour Relations Board may direct the employee organization to file with the Registrar, within such time as the Ontario Labour Relations Board may determine, a copy of the audited financial statement of its affairs to the end of its last fiscal year verified by the affidavit of its treasurer or other officer responsible for the handling and administration of its funds and to furnish a copy of such statement to such employees as the Ontario Labour Relations Board in its discretion may direct, and the employee organization shall comply with such direction according to its terms.

Represent-  
ative for  
service of  
process

(3) Every employee organization that represents employees or applies to represent employees under this Act shall file with the Ontario Labour Relations Board a notice giving the name and address of a person in Ontario who is authorized by the employee organization to accept on its behalf service of process and notices under this Act, and service on the person named in such notice is good and sufficient service for the purposes of this Act on the employee organization that filed the notice.

Vote by  
secret  
ballot

**89.** Where an employee organization conducts a vote of employees,

- (a) for the purposes of subsection 1 of section 60; or
- (b) to give approval to the terms of an agreement,

the vote shall be a vote by secret ballot conducted under the supervision of and in the manner determined by the Commission.

Contra-  
vention of  
Act by  
person

**90.—(1)** Every person who contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 for each day upon which the contravention occurs or continues.

Contra-  
vention of  
Act by  
employer or  
employee  
organization

(2) Every employer and every employee organization that contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$10,000 for each day upon which such contravention occurs or continues.



(3) The contravention of a decision, order, determination, direction, declaration or ruling made under this Act is deemed for the purposes of this section, to be a contravention of this Act. Contra-  
vention of  
decision,  
etc.

(4) Where an employer or employee organization is guilty of an offence under this Act, every officer, official or agent thereof who assents to the commission of the offence shall be deemed to be a party to and guilty of the offence and is liable to a fine under subsection 1 as if he had been convicted of an offence under subsection 1. Where  
officer guilty  
of offence

(5) An information in respect of a contravention of any provision of this Act may be for one or more offences and no information, warrant, conviction or other proceedings in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. Information

(6) No prosecution for an offence under this Act shall be instituted except with the consent of the Ontario Labour Relations Board which may only be granted after affording an opportunity to the person or body seeking the consent and the person or body sought to be prosecuted to be heard. Consent to  
prosecution

**91.** A prosecution for an offence under this Act may be instituted against any body, association or organization in the name of the body, association or organization whether or not the body, association or organization is a body corporate and, for the purposes of any such prosecution, any unincorporated body, association or organization shall be deemed to be a body corporate. Style of  
prosecution

**92.** Any act or thing done or omitted by an officer, official or agent of the Council, employer or employee organization within the apparent scope of his authority to act on behalf of the Council, employer or employee organization shall be deemed to be an act or thing done or omitted by the Council, employer or employee organization, as the case may be. Vicarious  
responsi-  
bility

**93.** Notwithstanding any other provision of this Act, Compella-  
bility of  
witnesses

- (a) the Minister of Colleges and Universities;
- (b) the Deputy Minister of Colleges and Universities;
- (c) a person employed in a position confidential to the Minister of Colleges and Universities or the Deputy Minister of Colleges and Universities;

- (d) the chairman, a vice-chairman or a member or employee of the Ontario Labour Relations Board;
- (e) an arbitrator or member or chairman of a board of arbitration; or
- (f) a selector,

is not a compellable witness in any proceeding under this Act or before a court or tribunal.

Continuation  
of matters  
1972, c. 67

**94.** Where the Ontario Public Service Labour Relations Tribunal or an arbitration board established under *The Crown Employees Collective Bargaining Act, 1972* or the Public Service Grievance Board proposed to hold or commenced but did not complete a matter or did not make a decision or declaration thereon, immediately before this Act comes into force, the matter shall be continued and the Tribunal, the arbitration board or the Public Service Grievance Board, as the case may be, shall continue and complete the matter and make a decision or declaration thereon that shall be effective for all purposes.

Application  
of R.S.O. 1970,  
c. 25

**95.**—(1) *The Arbitrations Act* does not apply to proceedings under this Act.

Idem.  
1971, c. 47

(2) *The Statutory Powers Procedure Act, 1971* applies to proceedings of the Ontario Labour Relations Board but does not apply to other proceedings under this Act.

Commence-  
ment

**96.** This Act comes into force on the day it receives Royal Assent.

Short title

**97.** This Act may be cited as *The Colleges Collective Bargaining Act, 1975*.

## SCHEDULE 1

The academic staff bargaining unit includes the employees of all boards of governors of colleges of applied arts and technology who are employed as teachers, counsellors or librarians but does not include,

- (i) chairmen,
- (ii) department heads,
- (iii) directors,
- (iv) persons above the rank of chairman, department head or director,
- (v) other persons employed in a managerial or confidential capacity,
- (vi) teachers who teach for six hours or less per week,
- (vii) counsellors and librarians employed on a part-time basis,
- (viii) teachers, counsellors or librarians who are appointed for one or more sessions and who are employed for not more than twelve months in any twenty-four month period,
- (ix) a person who is a member of the architectural, dental, engineering, legal or medical profession, entitled to practise in Ontario and employed in a professional capacity, or
- (x) a person engaged and employed outside Ontario.

## SCHEDULE 2

The support staff bargaining unit includes the employees of all boards of governors of colleges of applied arts and technology employed in positions or classifications in the office, clerical, technical, health care, maintenance, building service, shipping, transportation, cafeteria and nursery staff but does not include,

- (i) foremen,
- (ii) supervisors,
- (iii) persons above the rank of foreman or supervisor,
- (iv) persons employed in a confidential capacity in matters related to employee relations or the formulation of a budget of a college of applied arts and technology or of a constituent campus of a college of applied arts and technology including persons employed in clerical, stenographic or secretarial positions,
- (v) other persons employed in a managerial or confidential capacity,
- (vi) persons regularly employed for not more than twenty-four hours a week,
- (vii) students employed in a co-operative educational training program undertaken with a school, college or university,

- (viii) a graduate of a college of applied arts and technology during the period of twelve months immediately following completion of a course of study or instruction at the college by the graduate if the employment of the graduate is associated with a certification, registration or other licensing requirement,
- (ix) a person engaged for a project of a non-recurring kind,
- (x) a person who is a member of the architectural, dental, engineering, legal or medical profession, entitled to practise in Ontario and employed in a professional capacity, or
- (xi) a person engaged and employed outside Ontario.



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An Act respecting Collective Bargaining  
for Colleges of Applied Arts and  
Technology

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*1st Reading*

June 13th, 1975

*2nd Reading*

July 7th, 1975

*3rd Reading*

July 18th, 1975

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THE HON. J. A. C. AULD  
Minister of Colleges and Universities

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CA20N

XB

-B 56

BILL 109

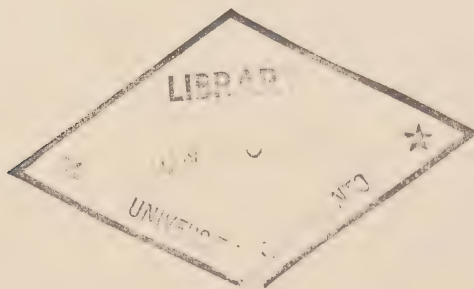
Government  
Publications  
Government Bill

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

Ontario. Legislative Assembly

An Act to amend  
The Ministry of Colleges and Universities Act, 1971

THE HON. J. A. C. AULD  
Minister of Colleges and Universities



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTE

The Bill repeals the collective bargaining provisions added to the Act in 1972 and is complementary to the Bill entitled An Act respecting Collective Bargaining for Colleges of Applied Arts and Technology.

BILL 109

1975

**An Act to amend  
The Ministry of Colleges and Universities Act, 1971**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 11 of section 6 of *The Ministry of Colleges and Universities Act, 1971*, being chapter 66, as enacted by the Statutes of Ontario, 1972, chapter 114, section 1, is repealed. <sup>s. 6 (11),  
repealed</sup>
2. Section 6a of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 114, section 2, is repealed. <sup>s. 6a,  
repealed</sup>
3. This Act comes into force on the day it receives Royal Assent. <sup>Commence-  
ment</sup>
4. This Act may be cited as *The Ministry of Colleges and Universities Amendment Act, 1975*. <sup>Short title</sup>

An Act to amend  
The Ministry of Colleges and  
Universities Act, 1971

---

*1st Reading*

June 13th, 1975

*2nd Reading*

*3rd Reading*

---

THE HON. J. A. C. AULD  
Minister of Colleges and Universities

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*(Government Bill)*

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**BILL 109**

Government  
Publications

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975



**An Act to amend  
The Ministry of Colleges and Universities Act, 1971**

**Ontario. Legislative Assembly**

THE HON. J. A. C. AULD  
Minister of Colleges and Universities

TORONTO

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BILL 109

1975

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An Act to amend  
The Ministry of Colleges and  
Universities Act, 1971

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*1st Reading*

June 13th, 1975

*2nd Reading*

July 7th, 1975

*3rd Reading*

July 18th, 1975

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THE HON. J. A. C. AUUD  
Minister of Colleges and Universities

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-B56

Government

Publications

**BILL 110**

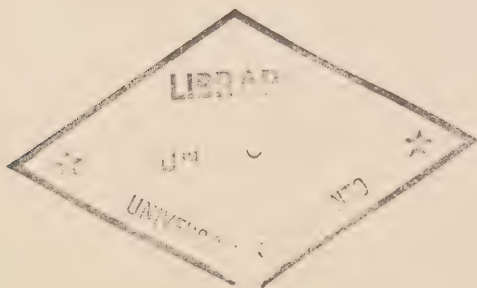
**Private Member's Bill**

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

**Ontario. Legislative Assembly**

**An Act to amend  
The Ontario Home Buyers Grant Act, 1975**

MR. HAGGERTY



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTE

The amendment provides that only persons who are Canadian citizens or residents of preceding 12 months may apply for grants under this Act.

BILL 110

1975

**An Act to amend  
The Ontario Home Buyers Grant Act, 1975**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 2 of *The Ontario Home Buyers Grant Act, 1975*, being chapter 4, is amended by inserting after "person" in the first line "who is a Canadian citizen or resident of preceding 12 months". s. 2 (1),  
amended
2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
3. This Act may be cited as *The Ontario Home Buyers Grant Amendment Act, 1975*. Short title

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## BILL 110

An Act to amend  
The Ontario Home Buyers  
Grant Act, 1975

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*1st Reading*

June 13th, 1975

*2nd Reading*

*3rd Reading*

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MR. HAGGERTY

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*(Private Member's Bill)*



CA20N  
XB  
-B 56

BILL 111

Government Bill

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

Ontario. Legislative Assembly

An Act to amend The Labour Relations Act

THE HON. J. P. MACBETH  
Minister of Labour



#### EXPLANATORY NOTES

SECTION 1.—Subsection 1. The term “employee” is defined to include “dependent contractor” to bring dependent contractors within the application of the Act and the term “dependent contractor” is defined.

Subsection 2. The subsection provides for the treating of two or more associated or related businesses as one employer. The subsection is re-enacted to include instances where two or more businesses do not operate simultaneously and also to permit direct applications to the Board under this subsection.

New subsection 5 of section 1 of the Act places the responsibility upon the employer to make all material facts known to the Board in a hearing to determine whether associated or related companies should be considered a single employer.

## An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 1 of *The Labour Relations Act*, <sup>s. 1 (1),  
amended</sup> being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following clauses:

(ga) “dependent contractor” means a person, whether or not employed under a contract of employment, and whether or not furnishing his own tools, vehicles, equipment, machinery, material, or any other thing, who performs work or services for another person for compensation or reward on such terms and conditions that he is in a position of economic dependence upon, and under an obligation to perform duties for, that person more closely resembling the relationship of an employee than that of an independent contractor;

(gb) “employee” includes a dependent contractor.

- (2) Subsection 4 of the said section 1 is repealed and the <sup>s. 1 (4),  
re-enacted</sup> following substituted therefor:

(4) Where, in the opinion of the Board, associated or <sup>Idem</sup> related activities or businesses are carried on, whether or not simultaneously, by or through more than one corporation, individual, or any combination thereof, under common control or direction, the Board may, upon the application of any person, trade union or council of trade unions concerned, treat the corporations, individuals, firms, syndicates or associations or any combination thereof as constituting one employer for the purposes of this Act and grant such relief, by way of declaration or otherwise, as it may deem appropriate.

- (5) Where, in an application made pursuant to subsection <sup>Duty of  
respondents</sup> 4, it is alleged that more than one corporation, individual,

firm, syndicate or association or any combination thereof are or were under common control or direction, the respondents to the application shall adduce all facts material to the allegation.

s. 2 (f),  
re-enacted

2. Clause *f* of section 2 of the said Act is repealed and the following substituted therefor:

1975, c.

(*f*) to a teacher as defined in *The School Boards and Teachers Collective Negotiations Act, 1975*, except as provided in that Act.

s. 6 (1),  
amended

- 3.—(1) Subsection 1 of section 6 of the said Act is amended by adding at the commencement thereof "Subject to subsection 1*a*".

s. 6,  
amended

- (2) The said section 6 is amended by adding thereto the following subsection:

Certifica-  
tion  
pending  
resolution  
of composi-  
tion of  
bargaining  
unit

(1*a*) Where, upon an application for certification, the Board is satisfied that any dispute as to the composition of the bargaining unit cannot affect the trade union's right to certification, the Board may certify the trade union as the bargaining agent pending the final resolution of the composition of the bargaining unit.

s. 6 (2),  
re-enacted

- (3) Subsection 2 of the said section 6 is repealed and the following substituted therefor:

Crafts  
units

(2) Any group of employees who exercise technical skills or who are members of a craft by reason of which they are distinguishable from the other employees and commonly bargain separately and apart from other employees through a trade union that according to established trade union practice pertains to such skills or crafts shall be deemed by the Board to be a unit appropriate for collective bargaining if the application is made by a trade union pertaining to such skills or craft, and the Board may include in such unit persons who according to established trade union practice are commonly associated in their work and bargaining with such group, but the Board shall not be required to apply this subsection where the group of employees is included in a bargaining unit represented by another bargaining agent at the time the application is made.

s. 6,  
amended

- (4) The said section 6 is further amended by adding thereto the following subsection:

Dependent  
contractors

(4) Where a trade union applies for certification as the bargaining agent for a bargaining unit comprised of or

SECTION 2. The reference in the re-enacted clause is brought up to date.

SECTION 3.—Subsection 1. Complementary to subsection 2.

Subsection 2. New subsection 1*a* of section 6 of the Act provides for certification of a trade union as bargaining agent for a bargaining unit where the final composition of the bargaining unit is still to be resolved, but it is clear that the trade union is entitled to certification.

Subsection 3. The subsection is re-enacted to remove the reference to employees exercising a combination of technical skills or performing the skills of more than one craft.

Subsection 4. The subsection provides for bargaining units consisting solely of dependent contractors.

SECTION 4.—Subsections 1 and 2. The membership requirement for certification is changed from 65 per cent to 55 per cent and the requirement for a vote is changed from 35 per cent to 45 per cent.

Subsection 3. The repeal of subsection 4 of section 7 of the Act is complementary to the enactment of new section 7*a* of the Act.

Subsection 4. Self-explanatory.

SECTION 5. New section 7*a* of the Act permits the Board to certify a trade union as bargaining agent without a vote when an employer's contravention of the Act makes it unlikely that the true wishes of the employees can be ascertained.

SECTION 6. The amendment expands the prohibition against discrimination in admission to trade union membership to include age and sex as prohibited considerations.

SECTION 7. New section 34*a* of the Act provides for the appointment by the Minister of persons knowledgeable in industrial relations as special officers to confer with and assist parties to collective agreements in respect of their current relationships and anticipated bargaining problems.

New section 34*b* of the Act provides for the appointment of a Disputes Advisory Committee that may be convened at the request of the Minister to confer with, advise and assist parties during the course of collective bargaining.

New section 34*c* of the Act provides that the parties may refer the matters remaining in dispute between them to binding arbitration.

Section 37 of the Act, referred to in subsection 2 of section 34*c*, sets out the powers of an arbitrator or board of arbitration and the effect of the decision. Subsections 12 and 13 of section 37 are new in this Bill.



including dependent contractors, the Board may, in determining the appropriate unit, require that the unit consist solely of dependent contractors.

- 4.—(1) Subsection 2 of section 7 of the said Act is amended by striking out “35” in the first line and inserting in lieu thereof “45” and by striking out “65” in the second line and in the fourth line and inserting in lieu thereof in each instance “55”. s. 7 (2),  
amended
- (2) Subsection 3 of the said section 7 is amended by striking out “65” in the third line and inserting in lieu thereof “55”. s. 7 (3),  
amended
- (3) Subsection 4 of the said section 7 is repealed. s. 7 (4),  
repealed
- (4) This section does not apply in respect of applications for certification made before this section comes into force. Application  
of section
5. The said Act is amended by adding thereto the following section: s. 7a,  
enacted
- 7a. Where an employer or employers’ organization contravenes this Act so that the true wishes of the employees of the employer or of a member of the employers’ organization are not likely to be ascertained, and, in the opinion of the Board, a trade union has membership support adequate for the purposes of collective bargaining in a bargaining unit found by the Board pursuant to section 6 to be appropriate for collective bargaining, the Board may, on the application of the trade union, certify the trade union as the bargaining agent of the employees in the bargaining unit. Certifi-  
cation  
where Act  
contravened
6. Section 12 of the said Act is amended by adding after “ancestry” in the fifth line “age, sex”. s. 12,  
amended
7. The said Act is further amended by adding thereto the following sections: ss. 34a-34d,  
enacted

34a.—(1) Where, at any time during the operation of a collective agreement, the Minister considers that it will promote more harmonious industrial relations between the parties, he may appoint a special officer to confer with the parties and assist them in an examination and discussion of their current relationship or the resolution of anticipated bargaining problems. Appointment  
of special  
officer

(2) A special officer appointed under subsection 1 shall confer with the parties and shall report to the Minister within Duties of  
special  
officer

thirty days of his appointment and upon the filing of his report his appointment shall terminate unless it is extended by the Minister.

Qualifications of special officer

(3) Any person knowledgeable in industrial relations may be appointed a special officer, whether or not he is an employee of the Crown.

Disputes Advisory Committee

34b.—(1) The Minister may appoint a Disputes Advisory Committee composed of one or more representatives of employers and one or more representatives of employees.

Purpose of Committee

(2) At any time during the course of bargaining, either before or after the commencement of a strike or lock-out, where it appears to the Minister that the normal conciliation and mediation procedures have been exhausted, the Minister may request that the Disputes Advisory Committee be convened to confer with, advise and assist the bargaining parties.

Voluntary arbitration

34c.—(1) Notwithstanding any other provision of this Act, the parties may at any time following the giving of notice of desire to bargain under section 13 or 45, agree in writing to refer all matters remaining in dispute between them to an arbitrator or a board of arbitration for final and binding determination.

Powers of arbitrator or board of arbitration

(2) The agreement to arbitrate shall supersede all other dispute settlement provisions of this Act, including those provisions relating to conciliation, mediation, strike and lock-out, and the provisions of subsections 6, 7, 9, 10, 11, 12 and 13 of section 37 apply *mutatis mutandis* to the proceedings before the arbitrator or board of arbitration and to its decision under this section.

Where Minister may require ratification vote

34d. Where, at any time after the commencement of a strike or lock-out, the Minister is of the opinion that it is in the public interest that the employees in the affected bargaining unit be given the opportunity to accept or reject the offer of the employer last received by the trade union in respect of all matters remaining in dispute between the parties, the Minister may, on such terms as he considers necessary, direct that a vote of the employees in the bargaining unit to accept or reject the offer be held forthwith.

s. 35 (1), amended

8.—(1) Subsection 1 of section 35 of the said Act is amended by inserting after "shall" in the first line "be deemed to".

s. 35 (2), amended

(2) Subsection 2 of the said section 35 is amended by inserting after "shall" in the second line "be deemed to".

SECTION 8. Subsections 1 and 2 of section 35 of the Act require collective agreements to include recognition of exclusive bargaining rights of the trade union that is a party and of an accredited employer's organization that is a party to the agreement. The amendment will deem these provisions to be included in the agreements. Subsection 3 of section 35 of the Act provides for an application to the Board to add the provision to an agreement and the repeal is complementary to the amendment of subsections 1 and 2.

SECTION 9. The new section 36*a* of the Act provides, except in the construction industry, for the inclusion in a collective agreement, at the request of the trade union that is the bargaining agent, of a requirement for the voluntary deduction and remittance by the employer of union dues payable by those employees of the bargaining unit who give written requests for the deductions and remittances.

SECTION 10. Section 37 of the Act deals with the arbitration of differences between parties to a collective agreement. The new subsection 5*a* of section 37 provides for extension of the time for taking any step or the grievance procedure under a collective agreement.

The new subsection 12 of section 37 provides that the jurisdiction of an arbitrator or arbitration board is exclusive and his or its decisions are final and conclusive.

The new subsection 13 of section 37 provides that the decisions of an arbitrator or arbitration board are not subject to review.

(3) Subsection 3 of the said section 35 is repealed.

s. 35 (3),  
repealed

9. The said Act is amended by adding thereto the following section:

s. 36a,  
enacted

36a.—(1) Except in the construction industry, where a trade union that is the bargaining agent for employees in a bargaining unit so requests, there shall be included in the collective agreement between the trade union and the employer of the employees a provision that at the written request of an employee in the bargaining unit the employer shall deduct from the wages of the employee the amount of the regular union dues payable by members of the trade union and remit the amount to the trade union.

Deduction  
and  
remittance  
of union  
dues

(2) In subsection 1, “regular union dues” means,

Interpre-  
tation

- (a) in the case of an employee who is a member of the trade union, the dues uniformly and regularly paid by a member of the trade union in accordance with the constitution and by-laws of the trade union; and
- (b) in the case of an employee who is not a member of the trade union, the dues referred to in clause a, excluding any amount in respect of pension, superannuation, sickness insurance or any other benefit available only to members of the trade union.

10. Section 37 of the said Act is amended by adding thereto the following subsections:

s. 37,  
amended

(5a) Except where a collective agreement states that this subsection does not apply, an arbitrator or arbitration board may extend the time for the taking of any step in the grievance procedure under a collective agreement, notwithstanding the expiration of such time, where the arbitrator or arbitration board is satisfied that there are reasonable grounds for the extension and that the opposite party will not be substantially prejudiced by the extension.

Extension  
of time

. . . . .

(12) An arbitrator or arbitration board has exclusive jurisdiction to determine all questions of fact and law that arise in any matter before the arbitrator or arbitration board and the decision of the arbitrator or arbitration board thereon is final and conclusive for all purposes.

Jurisdiction

Decisions  
of  
arbitrator  
or  
arbitration  
board not  
subject to  
review

(13) No decision, order, direction, declaration or ruling of an arbitrator or arbitration board shall be questioned or reviewed in any court and no proceeding shall be taken in any court by way of injunction, declaratory judgment, *certiorari*, *mandamus*, prohibition, application for judicial review, *quo warranto*, or otherwise, to question, review, prohibit or restrain the arbitrator or arbitration board or any of his or its decisions.

s. 38 (4),  
amended

**11.** Subsection 4 of section 38 of the said Act is amended by striking out "65" in the sixth line and inserting in lieu thereof "55".

s. 40 (b),  
amended

**12.** Clause *b* of section 40 of the said Act is amended by inserting after "ancestry" in the second line "age, sex".

s. 44 (2),  
re-enacted

**13.** Subsection 2 of section 44 of the said Act is repealed and the following substituted therefor:

Extension  
of term of  
collective  
agreement

(2) Notwithstanding subsection 1, the parties may, in a collective agreement or otherwise and before or after the collective agreement has ceased to operate, agree to continue the operation of the collective agreement or any of its provisions for a period of less than one year while they are bargaining for its renewal with or without modifications or for a new agreement, but such continued operation does not bar an application for certification or for a declaration that the trade union no longer represents the employees in the bargaining unit and the continuation of the collective agreement may be terminated by either party upon thirty days notice to the other party.

s. 49 (3),  
amended

**14.** Subsection 3 of section 49 of the said Act is amended by striking out "50" in the third line and in the seventh line and inserting in lieu thereof in each instance "45".

s. 55 (3),  
re-enacted

**15.—(1)** Subsection 3 of section 55 of the said Act is repealed and the following substituted therefor:

Idem

(3) Where an employer on behalf of whose employees a trade union or council of trade unions, as the case may be, has been certified as bargaining agent or has given or is entitled to give notice under section 13 or 45, sells his business, the trade union, or council of trade unions continues, until the Board otherwise declares, to be the bargaining agent for the employees of the person to whom the business was sold in the like bargaining unit in that business, and the trade union or council of trade unions is entitled to give to the person to whom the business was sold a written notice of its desire to bargain with a view



SECTION 11. The amendment brings the provision with regard to union security into line with the corresponding change in the certification provisions of section 7 of the Act.

SECTION 12. The amendment is complementary to the amendment of section 12 of the Act and expands the prohibition against discrimination to include age and sex.

SECTION 13. Subsection 2 of section 44 of the Act provides that the parties may extend the provisions of a collective agreement while bargaining for its renewal. The subsection is re-enacted for clarification and to provide for termination of the extension.

SECTION 14. The amendment changes from 50 per cent to 45 per cent the percentage of employees in a bargaining unit who must signify their desire to have a trade union's bargaining rights terminated by the Board in order that the Board must conduct a vote. The amendment is complementary to the amendments to section 7 of the Act.

SECTION 15.—Subsection 1. The subsection is re-enacted for clarification and to include a reference to section 45 of the Act under which a party may give notice of desire to bargain for renewal of an agreement.

Subsection 2. The subsection places the responsibility upon the employers for making known to the Board all material facts when a trade union alleges that the sale of a business has occurred.

SECTION 16. Self-explanatory.

SECTION 17. The subsection is re-enacted to clarify the provisions as to time.

SECTION 18. The subsection is re-enacted for clarification and to more closely parallel the wording of subsection 1 of the section.

to making a collective agreement or the renewal, with or without modifications, of the agreement then in operation and such notice has the same effect as a notice under section 13 or 45, as the case requires.

- (2) The said section 55 is amended by adding thereto the following subsection: s. 55, amended

(13) Where, on an application under this section, a trade union alleges that the sale of a business has occurred, the respondents to the application shall adduce all facts material to the allegation. Duty of respondents

- 16.** The said Act is further amended by adding thereto the following section: s. 60a, enacted

60a. Where, pursuant to a collective agreement, a trade union is engaged in the selection, referral, assignment, designation or scheduling of persons to employment, it shall not act in a manner that is arbitrary, discriminatory or in bad faith. Duty of fair referral, etc., by trade unions

- 17.** Subsection 2 of section 63 of the said Act is repealed and the following substituted therefor: s. 63 (2), re-enacted

(2) Where no collective agreement is in operation, no employee shall strike and no employer shall lock out an employee until the Minister has appointed a conciliation officer or a mediator under this Act and, No agreement

(a) seven days have elapsed after the day the Minister has released or is deemed pursuant to subsection 3 of section 102 to have released to the parties the report of a conciliation board or mediator; or

(b) fourteen days have elapsed after the day the Minister has released or is deemed pursuant to subsection 3 of section 102 to have released to the parties a notice that he does not consider it advisable to appoint a conciliation officer.

- 18.** Subsection 2 of section 70 of the said Act is repealed and the following substituted therefor: s. 70 (2), re-enacted

(2) Where a trade union has applied for certification and notice thereof from the Board has been received by the employer, the employer shall not, except with the consent of the trade union, alter the rates of wages or any other term or condition of employment or any right, privilege or duty, of the employer or the employees until, Idem

- (a) the trade union has given notice under section 13, in which case subsection 1 applies; or
- (b) the application for certification by the trade union is dismissed or terminated by the Board, or withdrawn by the trade union.

s. 76,  
amended

**19.** Section 76 of the said Act is amended by adding thereto the following subsection:

Complaint  
that  
financial  
statement  
inadequate

(2) Where a member of a trade union complains that an audited financial statement is inadequate, the Board may inquire into the complaint and the Board may order the trade union to prepare another audited financial statement in a form and containing such particulars as the Board considers appropriate and the Board may further order that the audited financial statement, as rectified, be certified by a person licensed under *The Public Accountancy Act* or a firm whose partners are licensed under that Act.

R.S.O. 1970,  
c. 573

s. 76a,  
enacted

**20.** The said Act is further amended by adding thereto the following section:

Interpre-  
tation

76a.—(1) In this section, “administrator” means any trade union, trustee or person responsible for the control, management or disposition of moneys received or contributed to a vacation pay fund, or a welfare benefit or pension plan or fund that provides for the members of a trade union of their survivors or beneficiaries payment of vacation pay or, through the purchase of insurance or otherwise, medical, surgical, dental or hospital care or benefits or benefits in the event of sickness, accident, disability, death or unemployment.

Annual filing  
of statement

(2) Every administrator shall file annually with the Minister not later than the 1st day of June in each year or at such other time or times as the Minister may direct, a copy of the audited financial statement certified by a person licensed under *The Public Accountancy Act* or a firm whose partners are licensed under that Act of a vacation pay fund, or a welfare benefit or pension plan or fund setting out its financial condition for the preceding fiscal year and disclosing,

- (a) a description of the coverage provided by the fund or plan;
- (b) the amount contributed by each employer;
- (c) the amounts contributed by the members and the trade union, if any;

SECTION 19. The subsection authorizes the Board to order trade unions to provide complete financial statements and to require that they be certified by a public accountant.

SECTION 20. The section requires that detailed audited financial reports of trustees of trade union pension and welfare funds be filed annually with the Minister and that members of the trade unions may obtain copies of the statements from the administrators of the funds upon request and without charge.

SECTION 21. Subsection 1 of section 79 of the Act sets out the cases into which the Board may authorize a field officer to make an inquiry. The subsection is re-enacted to provide that the Board may authorize a labour relations officer to inquire into any complaint alleging a contravention of the Act.

Subsections 2 and 3 of section 79 are re-enacted to refer to a "labour relations officer" instead of a "field officer".

Subsection 4 of section 79, which provides for the authority of the Board to act on complaints referred to in subsection 1, is re-enacted to provide a complementary wider authority to act on the complaints.

New subsection 4a of section 79 of the Act reverses the burden of proof where it is alleged that any person, employer or employers' organization has acted contrary to the Act with respect to employment, opportunity for employment or conditions of employment.

Subsection 6 of section 79 is amended to refer to a "labour relations officer" instead of a "field officer".



- (d) a statement of the assets, specifying the total amount of each type of asset;
- (e) a statement of liabilities, receipts and disbursements;
- (f) a statement of salaries, fees and commissions charged to the fund or plan, to whom paid, in what amount and for what purposes; and
- (g) such further information as the Minister may require.

(3) The administrator, upon the request in writing of any member of the trade union whose employer has made payments or contributions into the fund or plan, shall furnish to the member without charge a copy of the audited financial statement required to be filed by subsection 2.

Furnishing of copy to member of trade union

(4) Where an administrator has failed to comply with subsection 2 or 3, upon a certificate of failure so to comply signed by the Minister or upon complaint by the member, the Board may direct the trade union to comply within such time as the Board may determine.

Where Board may direct compliance

**21.**—(1) Subsections 1, 2, 3 and 4 of section 79 of the said Act are repealed and the following substituted therefor:

s. 79 (1-4). re-enacted

(1) The Board may authorize a labour relations officer to inquire into any complaint alleging a contravention of this Act.

Inquiry by labour relations officer

(2) The labour relations officer shall forthwith inquire into the complaint and endeavour to effect a settlement of the matter complained of.

Duties

(3) The labour relations officer shall report the results of his inquiry and endeavours to the Board.

Report

(4) Where a labour relations officer is unable to effect a settlement of the matter complained of or where the Board in its discretion considers it advisable to dispense with an inquiry by a labour relations officer, the Board may inquire into the complaint of a contravention of this Act and where the Board is satisfied that an employer, employers' organization, trade union, council of trade unions, person or employee has acted contrary to this Act it shall determine what, if anything, the employer, employers' organization, trade union, council of trade unions, person or employee shall do or refrain from doing with respect thereto and such

Remedy for discrimination

determination, without limiting the generality of the foregoing may include, notwithstanding the provisions of any collective agreement, any one or more of,

- (a) an order directing the employer, employers' organization, trade union, council of trade unions, employee or other person to cease doing the act or acts complained of;
- (b) an order directing the employer, employers' organization, trade union, council of trade unions, employee or other person to rectify the act or acts complained of; or
- (c) an order to reinstate in employment or hire the person or employee concerned, with or without compensation, or to compensate in lieu of hiring or reinstatement for loss of earnings or other employment benefits in an amount that may be assessed by the Board against the employer, employers' organization, trade union, council of trade unions, employee or other person jointly or severally.

Burden of  
proof

(4a) On an inquiry by the Board into a complaint under subsection 4 that a person has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act as to his employment, opportunity for employment or conditions of employment, the burden of proof that any person, employer or employers' organization did not act contrary to this Act lies upon the person, employer or employers' organization.

s. 79 (6),  
amended

(2) Subsection 6 of the said section 79 is amended by striking out "field" in the second line and inserting in lieu thereof "labour relations".

ss. 82, 83,  
re-enacted

**22.** Sections 82 and 83 of the said Act are repealed and the following substituted therefor:

Declaration  
and direction  
by Board  
in respect  
of unlawful  
strike

82. Where, on the complaint of an interested person, trade union, council of trade unions or employers' organization, the Board is satisfied that a trade union or council of trade unions called or authorized or threatened to call or authorize an unlawful strike or that an officer, official or agent of a trade union or council of trade unions counselled or procured or supported or encouraged an unlawful strike or threatened to engage in an unlawful strike, the Board may so declare and, in addition, in its discretion, it may direct what action if any a person, employee, employer, employers'

SECTION 22. Sections 82 and 83 of the Act, which authorize the Board to declare that a strike or a lock-out is unlawful, are re-enacted to provide that the Board, in addition, may direct what action shall be taken or not taken by those involved.

New section 83a of the Act provides for enforcement of the direction of the Board and is similar to subsection 3 of section 123 of the Act which applies to the construction industry.

SECTION 23. The amendment to section 89 of the Act is complementary to the re-enactment of sections 82 and 83 of the Act by this Bill.

SECTION 24. New subsection 11a of section 91 of the Act permits the chairman or a vice-chairman of the Board to sit alone to hear and determine matters related to fair representation (section 60), fair referral to work (section 60a, enacted by this Bill), unlawful strikes (section 82, re-enacted by this Bill), unlawful lock-outs (section 83, re-enacted by this Bill) and unlawful construction industry strikes and lock-outs (section 123) where the chairman or in the case of his absence or inability to act, the alternate chairman, considers it advisable.

SECTION 25. Section 98 of the Act, which protects the Board and its staff from being compelled to give testimony in civil suits, is re-enacted to extend the protection to proceedings before the Board or any other tribunal, to extend the scope of the protected information and to add a provision permitting the Board to waive the protection.

organization, trade union or council of trade unions and their officers, officials or agents shall do or refrain from doing with respect to the unlawful strike or the threat of an unlawful strike.

83. Where, on the complaint of an interested person, trade union, council of trade unions or employers' organization, the Board is satisfied that an employer or employers' organization called or authorized or threatened to call or authorize an unlawful lock-out or locked out or threatened to lock out employees or that an officer, official or agent of an employer or employers' organization counselled or procured or supported or encouraged an unlawful lock-out or threatened an unlawful lock-out, the Board may so declare and, in addition, in its discretion, it may direct what action if any a person, employee, employer, employers' organization, trade union or council of trade unions and their officers, officials or agents shall do or refrain from doing with respect to the unlawful lock-out or the threat of an unlawful lock-out.

Declaration and direction by Board in respect of unlawful lock-out

83a. The Board shall file in the office of the Registrar of the Supreme Court a copy of a direction made under section 82 or 83, exclusive of the reasons therefor, whereupon the direction shall be entered in the same way as a judgment or order of that court.

Enforcement of direction by Supreme Court

23. Section 89 of the said Act is amended by inserting after "section" in the fifth line "82, 83 or".

s. 89, amended

24. Section 91 of the said Act is amended by adding thereto the following subsection:

s. 91, amended

(11a) Notwithstanding subsections 9, 10 and 11, and where in his opinion it is advisable to do so, the chairman, or in the case of his absence or inability to act the alternate chairman, may sit alone to hear and determine or may authorize a vice-chairman to sit alone to hear and determine any application, request, complaint, matter or thing in respect of section 60 or 60a or section 82, 83 or 123, and to exercise all of the jurisdiction and powers of the Board when so sitting.

When chairman or vice-chairman may sit alone

25. Section 98 of the said Act is repealed and the following substituted therefor:

s. 98, re-enacted

98. Except with the consent of the Board, no member of the Board, nor its registrar, nor any of its other officers, nor any of its clerks or servants shall be required to give testimony in any civil suit or in any proceeding before the

Testimony in civil suits, etc.



Board or in any proceeding before any other tribunal respecting information obtained in the discharge of their duties or while acting within the scope of their employment under this Act.

s. 100 (6),  
re-enacted

- 26.** Subsection 6 of section 100 of the said Act is repealed and the following substituted therefor:

Secrecy of  
information  
given labour  
relations  
officers

(6) No information or material furnished to or received by a labour relations officer under this Act and no report of a labour relations officer shall be disclosed except to the Board or as authorized by the Board, and no member of the Board and no labour relations officer is a competent or compellable witness in proceedings before a court, the Board or other tribunal respecting any such information, material or report.

s. 102 (4),  
amended

- 27.** Subsection 4 of section 102 of the said Act is amended by inserting after "section" in the fourth line "82, 83 or".

s. 105 (d),  
re-enacted

- 28.**—(1) Clause *d* of section 105 of the said Act is repealed and the following substituted therefor:

(d) prescribing amounts for the expense of proceedings under section 112*a* and providing for the adjustment of such amounts in exceptional circumstances.

s. 105 (e),  
amended

- (2) Clause *e* of the said section 105 is amended by inserting after "81" in the third line "83*a*".

s. 106 (e),  
amended

- 29.** Clause *e* of section 106 of the said Act is amended by striking out "sewers, tunnels" in the fourth line and inserting in lieu thereof "sewers".

s. 112*a*,  
enacted

- 30.** The said Act is further amended by adding thereto the following section:

Referral of  
grievance  
to Board

112*a*.—(1) Notwithstanding the grievance and arbitration provisions in a collective agreement or deemed to be included in a collective agreement under section 37, either party to a collective agreement may refer a grievance concerning the interpretation, application, administration or alleged violation of the agreement, including any question as to whether a matter is arbitrable, to the Board for final and binding determination.

Hearing

(2) A referral under subsection 1 may be made in writing in the prescribed form by the grievor at any time after delivery of the written grievance to the other party, and the Board shall appoint a date for and hold a hearing within



SECTION 26. Subsection 6 of section 100 of the Act is re-enacted to refer to a “labour relations officer” instead of a “field officer” and to refer to proceedings before the Board. The re-enactment is complementary to the amendments to sections 79 and 98 of the Act contained in this Bill.

SECTION 27. Subsection 4 of section 102 of the Act is amended complementary to the re-enactment of sections 82 and 83 of the Act by this Bill.

SECTION 28. The repeal of clause *d* of section 105 of the Act is complementary to the enactment of new section 76*a* by this Bill. New clause *d* is complementary to subsection 4 of section 112*a* of the Act.

Clause *e* of section 105 of the Act is amended complementary to the re-enactment of section 83*a* of the Act by this Bill.

SECTION 29. The definition of “sector” in the construction industry portion of the Act is amended to remove the reference to “tunnels” since tunnels are not exclusively constructed by employers operating in the sewers and watermains sector of the construction industry.

SECTION 30. New section 112*a* of the Act provides for the referral of grievances in respect of collective agreements in the construction industry to the Board for hearing and determination.

SECTION 31. The amendment adds discrimination because of age or sex to the reasons for which the Board is not to accredit an employers' organization and is complementary to the amendments to sections 12 and 40 of the Act.

fourteen days after receipt of the referral and may appoint a labour relations officer to confer with the parties and endeavour to effect a settlement before the hearing.

(3) Upon a referral under subsection 1, the Board has exclusive jurisdiction to hear and determine the difference or allegation raised in the grievance referred to it, including any question as to whether the matter is arbitrable, and the provisions of subsections 7, 8, 8a, 9, 10, 11 and 13 of section 37 apply *mutatis mutandis* to the Board and to the enforcement of the decision of the Board. Jurisdiction  
of Board

(4) The expense of proceedings under this section, in the amount fixed by the regulations, shall be jointly paid by the parties to the Board for payment into the Consolidated Revenue Fund. Expense

**31.** Subsection 5 of section 115 of the said Act is amended by inserting after "ancestry" in the fifth line "age, sex". s. 115 (5),  
amended

**32.—**(1) This Act, except sections 6, 12 and 31, comes into force on the day it receives Royal Assent. Commence-  
ment

(2) Sections 6, 12 and 31 come into force on a day to be named by proclamation of the Lieutenant Governor. Idem

**33.** This Act may be cited as *The Labour Relations Amendment Act, 1975*. Short title

An Act to amend  
The Labour Relations Act

*1st Reading*

June 13th, 1975

*2nd Reading*

*3rd Reading*

THE HON. J. P. MACBETH  
Minister of Labour

*(Government Bill)*

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BILL 111

Government Bill

B56

~~Government~~

Publication

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

Ontario. Legislative Assembly

## An Act to amend The Labour Relations Act



THE HON. J. P. MACBETH  
Minister of Labour

*(Reprinted as amended by the Committee of the Whole House)*

TORONTO

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#### EXPLANATORY NOTES

SECTION 1.—Subsection 1. The term “employee” is defined to include “dependent contractor” to bring dependent contractors within the application of the Act and the term “dependent contractor” is defined.

Subsection 2. The subsection provides for the treating of two or more associated or related businesses as one employer. The subsection is re-enacted to include instances where two or more businesses do not operate simultaneously and also to permit direct applications to the Board under this subsection.

New subsection 5 of section 1 of the Act places the responsibility upon the employer to make all material facts known to the Board in a hearing to determine whether associated or related companies should be considered a single employer.



## An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 1 of *The Labour Relations Act*, <sup>s. 1 (1),  
amended</sup> being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following clauses:

(ga) “dependent contractor” means a person, whether or not employed under a contract of employment, and whether or not furnishing his own tools, vehicles, equipment, machinery, material, or any other thing, who performs work or services for another person for compensation or reward on such terms and conditions that he is in a position of economic dependence upon, and under an obligation to perform duties for, that person more closely resembling the relationship of an employee than that of an independent contractor;

(gb) “employee” includes a dependent contractor.

- (2) Subsection 4 of the said section 1 is repealed and the <sup>s. 1 (4),  
re-enacted</sup> following substituted therefor:

(4) Where, in the opinion of the Board, associated or <sup>Idem</sup> related activities or businesses are carried on, whether or not simultaneously, by or through more than one corporation, individual, firm, syndicate or association or any combination thereof, under common control or direction, the Board may, upon the application of any person, trade union or council of trade unions concerned, treat the corporations, individuals, firms, syndicates or associations or any combination thereof as constituting one employer for the purposes of this Act and grant such relief, by way of declaration or otherwise, as it may deem appropriate.

- (5) Where, in an application made pursuant to subsection <sup>Duty of  
respondents</sup> 4, it is alleged that more than one corporation, individual,

firm, syndicate or association or any combination thereof are or were under common control or direction, the respondents to the application shall adduce at the hearing all facts within their knowledge that are material to the allegation.

s. 2 (f),  
re-enacted

2. Clause *f* of section 2 of the said Act is repealed and the following substituted therefor:

1975, c.

(*f*) to a teacher as defined in *The School Boards and Teachers Collective Negotiations Act, 1975*, except as provided in that Act.

s. 6 (1),  
amended

- 3.—(1) Subsection 1 of section 6 of the said Act is amended by adding at the commencement thereof "Subject to subsection 1*a*".

s. 6,  
amended

- (2) The said section 6 is amended by adding thereto the following subsection:

Certifica-  
tion  
pending  
resolution  
of composi-  
tion of  
bargaining  
unit

(1*a*) Where, upon an application for certification, the Board is satisfied that any dispute as to the composition of the bargaining unit cannot affect the trade union's right to certification, the Board may certify the trade union as the bargaining agent pending the final resolution of the composition of the bargaining unit.

s. 6 (2),  
re-enacted

- (3) Subsection 2 of the said section 6 is repealed and the following substituted therefor:

Crafts  
units

(2) Any group of employees who exercise technical skills or who are members of a craft by reason of which they are distinguishable from the other employees and commonly bargain separately and apart from other employees through a trade union that according to established trade union practice pertains to such skills or crafts shall be deemed by the Board to be a unit appropriate for collective bargaining if the application is made by a trade union pertaining to such skills or craft, and the Board may include in such unit persons who according to established trade union practice are commonly associated in their work and bargaining with such group, but the Board shall not be required to apply this subsection where the group of employees is included in a bargaining unit represented by another bargaining agent at the time the application is made.

s. 6,  
amended

- (4) The said section 6 is further amended by adding thereto the following subsection:

Dependent  
contractors

(4) A bargaining unit consisting solely of dependent contractors shall be deemed by the Board to be a unit of

SECTION 2. The reference in the re-enacted clause is brought up to date.

SECTION 3.—Subsection 1. Complementary to subsection 2.

Subsection 2. New subsection 1*a* of section 6 of the Act provides for certification of a trade union as bargaining agent for a bargaining unit where the final composition of the bargaining unit is still to be resolved, but it is clear that the trade union is entitled to certification.

Subsection 3. The subsection is re-enacted to remove the reference to employees exercising a combination of technical skills or performing the skills of more than one craft.

Subsection 4. The subsection provides for bargaining units consisting solely of dependent contractors.

SECTION 4.—Subsections 1 and 2. The membership requirement for certification is changed from 65 per cent to 55 per cent and the requirement for a vote is changed from 35 per cent to 45 per cent.

Subsection 3. The repeal of subsection 4 of section 7 of the Act is complementary to the enactment of new section 7*a* of the Act.

Subsection 4. Self-explanatory.

SECTION 5. New section 7*a* of the Act permits the Board to certify a trade union as bargaining agent without a vote when an employer's contravention of the Act makes it unlikely that the true wishes of the employees can be ascertained.

SECTION 6. The amendment expands the prohibition against discrimination in admission to trade union membership to include age and sex as prohibited considerations.

SECTION 7. New section 34*a* of the Act provides for the appointment by the Minister of persons knowledgeable in industrial relations as special officers to confer with and assist parties to collective agreements in respect of their current relationships and anticipated bargaining problems.

New section 34*b* of the Act provides for the appointment of a Disputes Advisory Committee that may be convened at the request of the Minister to confer with, advise and assist parties during the course of collective bargaining.

New section 34*c* of the Act provides that the parties may refer the matters remaining in dispute between them to binding arbitration.

Section 37 of the Act, referred to in subsection 2 of section 34*c*, sets out the powers of an arbitrator or board of arbitration and the effect of the decision. Subsections 12 and 13 of section 37 are new in this Bill.

employees appropriate for collective bargaining but the Board may include dependent contractors in a bargaining unit with other employees if the Board is satisfied that a majority of such dependent contractors wish to be included in such bargaining unit.

- 4.—(1) Subsection 2 of section 7 of the said Act is amended by striking out “35” in the first line and inserting in lieu thereof “45” and by striking out “65” in the second line and in the fourth line and inserting in lieu thereof in each instance “55”. s. 7 (2),  
amended
- (2) Subsection 3 of the said section 7 is amended by striking out “65” in the third line and inserting in lieu thereof “55”. s. 7 (3),  
amended
- (3) Subsection 4 of the said section 7 is repealed. s. 7 (4),  
repealed
- (4) This section does not apply in respect of applications for certification made before this section comes into force. Application  
of section
5. The said Act is amended by adding thereto the following section: s. 7a,  
enacted

7a. Where an employer or employers’ organization contravenes this Act so that the true wishes of the employees of the employer or of a member of the employers’ organization are not likely to be ascertained, and, in the opinion of the Board, a trade union has membership support adequate for the purposes of collective bargaining in a bargaining unit found by the Board pursuant to section 6 to be appropriate for collective bargaining, the Board may, on the application of the trade union, certify the trade union as the bargaining agent of the employees in the bargaining unit. Certifi-  
cation  
where Act  
contravened

6. Section 12 of the said Act is amended by adding after “ancestry” in the fifth line “age, sex”. s. 12,  
amended
7. The said Act is further amended by adding thereto the following sections: ss. 34a-34d,  
enacted

34a.—(1) Where, at any time during the operation of a collective agreement, the Minister considers that it will promote more harmonious industrial relations between the parties, he may appoint a special officer to confer with the parties and assist them in an examination and discussion of their current relationship or the resolution of anticipated bargaining problems. Appointment  
of special  
officer



Duties of  
special  
officer

(2) A special officer appointed under subsection 1 shall confer with the parties and shall report to the Minister within thirty days of his appointment and upon the filing of his report his appointment shall terminate unless it is extended by the Minister.

Qualifi-  
cations  
of special  
officer

(3) Any person knowledgeable in industrial relations may be appointed a special officer, whether or not he is an employee of the Crown.

Disputes  
Advisory  
Committee

34b.—(1) The Minister may appoint a Disputes Advisory Committee composed of one or more representatives of employers and one or more representatives of employees.

Purpose of  
Committee

(2) At any time during the course of bargaining, either before or after the commencement of a strike or lock-out, where it appears to the Minister that the normal conciliation and mediation procedures have been exhausted, the Minister may request that the Disputes Advisory Committee be convened to confer with, advise and assist the bargaining parties.

Voluntary  
arbitration

34c.—(1) Notwithstanding any other provision of this Act, the parties may at any time following the giving of notice of desire to bargain under section 13 or 45, irrevocably agree in writing to refer all matters remaining in dispute between them to an arbitrator or a board of arbitration for final and binding determination.

Powers of  
arbitrator  
or board of  
arbitration

(2) The agreement to arbitrate shall supersede all other dispute settlement provisions of this Act, including those provisions relating to conciliation, mediation, strike and lock-out, and the provisions of subsections 6, 7, 9, 10 and 11 of section 37 apply *mutatis mutandis* to the proceedings before the arbitrator or board of arbitration and to its decision under this section.

Effect  
of  
agreement

(3) For the purposes of section 53 and section 112, an irrevocable agreement in writing referred to in subsection 1 shall have the same effect as a collective agreement.

Where  
Minister  
may require  
ratification  
vote

34d. Where, at any time after the commencement of a strike or lock-out, the Minister is of the opinion that it is in the public interest that the employees in the affected bargaining unit be given the opportunity to accept or reject the offer of the employer last received by the trade union in respect of all matters remaining in dispute between the parties, the Minister may, on such terms as he considers necessary, direct that a vote of the employees in the bargaining unit to accept or reject the offer be held forthwith.





SECTION 8. Subsections 1 and 2 of section 35 of the Act require collective agreements to include recognition of exclusive bargaining rights of the trade union that is a party and of an accredited employer's organization that is a party to the agreement. The amendment will deem these provisions to be included in the agreements. Subsection 3 of section 35 of the Act provides for an application to the Board to add the provision to an agreement and the repeal is complementary to the amendment of subsections 1 and 2.

SECTION 9. The new section 36*a* of the Act provides, except in the construction industry, for the inclusion in a collective agreement, at the request of the trade union that is the bargaining agent, of a requirement for the voluntary deduction and remittance by the employer of union dues payable by those employees of the bargaining unit who give written requests for the deductions and remittances.

SECTION 10. Section 37 of the Act deals with the arbitration of differences between parties to a collective agreement. The new subsection 5*a* of section 37 provides for extension of the time for taking any step or the grievance procedure under a collective agreement.

8.—(1) Subsection 1 of section 35 of the said Act is amended by inserting after “shall” in the first line “be deemed to”. s. 35 (1), amended

(2) Subsection 2 of the said section 35 is amended by inserting after “shall” in the second line “be deemed to”. s. 35 (2), amended

(3) Subsection 3 of the said section 35 is repealed. s. 35 (3), repealed

9. The said Act is amended by adding thereto the following section: s. 36a, enacted

36a.—(1) Except in the construction industry, where a trade union that is the bargaining agent for employees in a bargaining unit so requests, there shall be included in the collective agreement between the trade union and the employer of the employees a provision that at the written request of an employee in the bargaining unit the employer shall deduct from the wages of the employee the amount of the regular union dues payable by members of the trade union and remit the amount to the trade union. Deduction and remittance of union dues

(2) In subsection 1, “regular union dues” means, Interpretation

(a) in the case of an employee who is a member of the trade union, the dues uniformly and regularly paid by a member of the trade union in accordance with the constitution and by-laws of the trade union; and

(b) in the case of an employee who is not a member of the trade union, the dues referred to in clause a, excluding any amount in respect of pension, superannuation, sickness insurance or any other benefit available only to members of the trade union.

10. Section 37 of the said Act is amended by adding thereto the following subsection: s. 37, amended

(5a) Except where a collective agreement states that this subsection does not apply, an arbitrator or arbitration board may extend the time for the taking of any step in the grievance procedure under a collective agreement, notwithstanding the expiration of such time, where the arbitrator or arbitration board is satisfied that there are reasonable grounds for the extension and that the opposite party will not be substantially prejudiced by the extension. Extension of time

s. 38 (4),  
amended

**11.** Subsection 4 of section 38 of the said Act is amended by striking out “65” in the sixth line and inserting in lieu thereof “55”.

s. 40 (b),  
amended

**12.** Clause *b* of section 40 of the said Act is amended by inserting after “ancestry” in the second line “age, sex”.

s. 44 (2),  
re-enacted

**13.** Subsection 2 of section 44 of the said Act is repealed and the following substituted therefor:

Extension  
of term of  
collective  
agreement

(2) Notwithstanding subsection 1, the parties may, in a collective agreement or otherwise and before or after the collective agreement has ceased to operate, agree to continue the operation of the collective agreement or any of its provisions for a period of less than one year while they are bargaining for its renewal with or without modifications or for a new agreement, but such continued operation does not bar an application for certification or for a declaration that the trade union no longer represents the employees in the bargaining unit and the continuation of the collective agreement may be terminated by either party upon thirty days notice to the other party.

s. 49 (3),  
amended

**14.** Subsection 3 of section 49 of the said Act is amended by striking out “50” in the third line and in the seventh line and inserting in lieu thereof in each instance “45”.

s. 55 (3),  
re-enacted

**15.—(1)** Subsection 3 of section 55 of the said Act is repealed and the following substituted therefor:

Idem

(3) Where an employer on behalf of whose employees a trade union or council of trade unions, as the case may be, has been certified as bargaining agent or has given or is entitled to give notice under section 13 or 45, sells his business, the trade union, or council of trade unions continues, until the Board otherwise declares, to be the bargaining agent for the employees of the person to whom the business was sold in the like bargaining unit in that business, and the trade union or council of trade unions is entitled to give to the person to whom the business was sold a written notice of its desire to bargain with a view to making a collective agreement or the renewal, with or without modifications, of the agreement then in operation and such notice has the same effect as a notice under section 13 or 45, as the case requires.

s. 55,  
amended

(2) The said section 55 is amended by adding thereto the following subsection:

SECTION 11. The amendment brings the provision with regard to union security into line with the corresponding change in the certification provisions of section 7 of the Act.

SECTION 12. The amendment is complementary to the amendment of section 12 of the Act and expands the prohibition against discrimination to include age and sex.

SECTION 13. Subsection 2 of section 44 of the Act provides that the parties may extend the provisions of a collective agreement while bargaining for its renewal. The subsection is re-enacted for clarification and to provide for termination of the extension.

SECTION 14. The amendment changes from 50 per cent to 45 per cent the percentage of employees in a bargaining unit who must signify their desire to have a trade union's bargaining rights terminated by the Board in order that the Board must conduct a vote. The amendment is complementary to the amendments to section 7 of the Act.

SECTION 15.—Subsection 1. The subsection is re-enacted for clarification and to include a reference to section 45 of the Act under which a party may give notice of desire to bargain for renewal of an agreement.

Subsection 2. The subsection places the responsibility upon the employers for making known to the Board all material facts when a trade union alleges that the sale of a business has occurred.

SECTION 16. Self-explanatory.

SECTION 17. The subsection is re-enacted to clarify the provisions as to time.

SECTION 18. The subsection is re-enacted for clarification and to more closely parallel the wording of subsection 1 of the section.



(13) Where, on an application under this section, a trade union alleges that the sale of a business has occurred, the respondents to the application shall adduce at the hearing all facts within their knowledge that are material to the allegation.

- 16.** The said Act is further amended by adding thereto the following section:

60a. Where, pursuant to a collective agreement, a trade union is engaged in the selection, referral, assignment, designation or scheduling of persons to employment, it shall not act in a manner that is arbitrary, discriminatory or in bad faith.

- 17.** Subsection 2 of section 63 of the said Act is repealed and the following substituted therefor:

(2) Where no collective agreement is in operation, no employee shall strike and no employer shall lock out an employee until the Minister has appointed a conciliation officer or a mediator under this Act and,

(a) seven days have elapsed after the day the Minister has released or is deemed pursuant to subsection 3 of section 102 to have released to the parties the report of a conciliation board or mediator; or

(b) fourteen days have elapsed after the day the Minister has released or is deemed pursuant to subsection 3 of section 102 to have released to the parties a notice that he does not consider it advisable to appoint a conciliation board.

- 18.** Subsection 2 of section 70 of the said Act is repealed and the following substituted therefor:

(2) Where a trade union has applied for certification and notice thereof from the Board has been received by the employer, the employer shall not, except with the consent of the trade union, alter the rates of wages or any other term or condition of employment or any right, privilege or duty, of the employer or the employees until,

(a) the trade union has given notice under section 13, in which case subsection 1 applies; or

- (b) the application for certification by the trade union is dismissed or terminated by the Board, or withdrawn by the trade union.

s. 76,  
amended

19. Section 76 of the said Act is amended by adding thereto the following subsection:

Complaint  
that  
financial  
statement  
inadequate

(2) Where a member of a trade union complains that an audited financial statement is inadequate, the Board may inquire into the complaint and the Board may order the trade union to prepare another audited financial statement in a form and containing such particulars as the Board considers appropriate and the Board may further order that the audited financial statement, as rectified, be certified by a person licensed under *The Public Accountancy Act* or a firm whose partners are licensed under that Act.

R.S.O. 1970,  
c. 373

s. 76a,  
enacted

20. The said Act is further amended by adding thereto the following section:

Interpre-  
tation

76a.—(1) In this section, “administrator” means any trade union, trustee or person responsible for the control, management or disposition of moneys received or contributed to a vacation pay fund or a welfare benefit or pension plan or fund for the members of a trade union or their survivors or beneficiaries.

Annual filing  
of statement

(2) Every administrator shall file annually with the Minister not later than the 1st day of June in each year or at such other time or times as the Minister may direct, a copy of the audited financial statement certified by a person licensed under *The Public Accountancy Act* or a firm whose partners are licensed under that Act of a vacation pay fund, or a welfare benefit or pension plan or fund setting out its financial condition for the preceding fiscal year and disclosing,

- (a) a description of the coverage provided by the fund or plan;
- (b) the amount contributed by each employer;
- (c) the amounts contributed by the members and the trade union, if any;

SECTION 19. The subsection authorizes the Board to order trade unions to provide complete financial statements and to require that they be certified by a public accountant.

SECTION 20. The section requires that detailed audited financial reports of trustees of trade union pension and welfare funds be filed annually with the Minister and that members of the trade unions may obtain copies of the statements from the administrators of the funds upon request and without charge.

SECTION 21. Subsection 1 of section 79 of the Act sets out the cases into which the Board may authorize a field officer to make an inquiry. The subsection is re-enacted to provide that the Board may authorize a labour relations officer to inquire into any complaint alleging a contravention of the Act.

Subsections 2 and 3 of section 79 are re-enacted to refer to a "labour relations officer" instead of a "field officer".

Subsection 4 of section 79, which provides for the authority of the Board to act on complaints referred to in subsection 1, is re-enacted to provide a complementary wider authority to act on the complaints.

New subsection 4a of section 79 of the Act reverses the burden of proof where it is alleged that any person, employer or employers' organization has acted contrary to the Act with respect to employment, opportunity for employment or conditions of employment.

Subsection 6 of section 79 is amended to refer to a "labour relations officer" instead of a "field officer".

- (d) a statement of the assets, specifying the total amount of each type of asset;
- (e) a statement of liabilities, receipts and disbursements;
- (f) a statement of salaries, fees and commissions charged to the fund or plan, to whom paid, in what amount and for what purposes; and
- (g) such further information as the Minister may require.

(3) The administrator, upon the request in writing of any member of the trade union whose employer has made payments or contributions into the fund or plan, shall furnish to the member without charge a copy of the audited financial statement required to be filed by subsection 2.

Furnishing  
of copy to  
member of  
trade  
union

(4) Where an administrator has failed to comply with subsection 2 or 3, upon a certificate of failure so to comply signed by the Minister or upon complaint by the member, the Board may direct the administrator to comply within such time as the Board may determine.

Where  
Board  
may direct  
compliance

**21.**—(1) Subsections 1, 2, 3 and 4 of section 79 of the said Act are repealed and the following substituted therefor:

s. 79 (1-4),  
re-enacted

(1) The Board may authorize a labour relations officer to inquire into any complaint alleging a contravention of this Act.

Inquiry  
by  
labour  
relations  
officer

(2) The labour relations officer shall forthwith inquire into the complaint and endeavour to effect a settlement of the matter complained of.

Duties

(3) The labour relations officer shall report the results of his inquiry and endeavours to the Board.

Report

(4) Where a labour relations officer is unable to effect a settlement of the matter complained of or where the Board in its discretion considers it advisable to dispense with an inquiry by a labour relations officer, the Board may inquire into the complaint of a contravention of this Act and where the Board is satisfied that an employer, employers' organization, trade union, council of trade unions, person or employee has acted contrary to this Act it shall determine what, if anything, the employer, employers' organization, trade union, council of trade unions, person or employee shall do or refrain from doing with respect thereto and such

Remedy for  
discrimina-  
tion

determination, without limiting the generality of the foregoing may include, notwithstanding the provisions of any collective agreement, any one or more of,

- (a) an order directing the employer, employers' organization, trade union, council of trade unions, employee or other person to cease doing the act or acts complained of;
- (b) an order directing the employer, employers' organization, trade union, council of trade unions, employee or other person to rectify the act or acts complained of; or
- (c) an order to reinstate in employment or hire the person or employee concerned, with or without compensation, or to compensate in lieu of hiring or reinstatement for loss of earnings or other employment benefits in an amount that may be assessed by the Board against the employer, employers' organization, trade union, council of trade unions, employee or other person jointly or severally.

Burden of  
proof

(4a) On an inquiry by the Board into a complaint under subsection 4 that a person has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act as to his employment, opportunity for employment or conditions of employment, the burden of proof that any employer or employers' organization did not act contrary to this Act lies upon the employer or employers' organization.

s. 79 (6),  
amended

- (2) Subsection 6 of the said section 79 is amended by striking out "field" in the second line and inserting in lieu thereof "labour relations" and by striking out "clause *a*, *b* or *c* of subsection 1, as the case may be" in the eleventh and twelfth lines and inserting in lieu thereof "subsection 1".

ss. 82, 83,  
re-enacted

- 22.** Sections 82 and 83 of the said Act are repealed and the following substituted therefor:

Declaration  
and direction  
by Board  
in respect  
of unlawful  
strike

82. Where, on the complaint of a trade union, council of trade unions, employer or employers' organization, the Board is satisfied that a trade union or council of trade unions called or authorized or threatened to call or authorize an unlawful strike or that an officer, official or agent of a trade union or council of trade unions counselled or procured or supported or encouraged an unlawful strike or threatened to engage in an unlawful strike or that employees engaged in or threatened to engage in an unlawful strike, the Board may so declare and, in addition, in its discretion,



SECTION 22. Sections 82 and 83 of the Act, which authorize the Board to declare that a strike or a lock-out is unlawful, are re-enacted to provide that the Board, in addition, may direct what action shall be taken or not taken by those involved.

New section 83a of the Act provides for enforcement of the direction of the Board and is similar to subsection 3 of section 123 of the Act which applies to the construction industry.

SECTION 23. The amendment to section 89 of the Act is complementary to the re-enactment of sections 82 and 83 of the Act by this Bill.

SECTION 24. New subsection 11a of section 91 of the Act permits the chairman or a vice-chairman of the Board to sit alone to hear and determine matters related to fair representation (section 60), fair referral to work (section 60a, enacted by this Bill), unlawful strikes (section 82, re-enacted by this Bill), unlawful lock-outs (section 83, re-enacted by this Bill) and unlawful construction industry strikes and lock-outs (section 123) where the chairman or in the case of his absence or inability to act, the alternate chairman, considers it advisable.

SECTION 25. Section 98 of the Act, which protects the Board and its staff from being compelled to give testimony in civil suits, is re-enacted to extend the protection to proceedings before the Board or any other tribunal, to extend the scope of the protected information and to add a provision permitting the Board to waive the protection.

it may direct what action if any a person, employee, employer, employers' organization, trade union or council of trade unions and their officers, officials or agents shall do or refrain from doing with respect to the unlawful strike or the threat of an unlawful strike.

83. Where, on the complaint of a trade union, council of trade unions, employer or employers' organization, the Board is satisfied that an employer or employers organization called or authorized or threatened to call or authorize an unlawful lock-out or locked out or threatened to lock out employees or that an officer, official or agent of an employer or employers' organization counselled or procured or supported or encouraged an unlawful lock-out or threatened an unlawful lock-out, the Board may so declare and, in addition, in its discretion, it may direct what action if any a person, employee, employer, employers' organization, trade union or council of trade unions and their officers, officials or agents shall do or refrain from doing with respect to the unlawful lock-out or the threat of an unlawful lock-out.

Declaration  
and direction  
by Board  
in respect  
of unlawful  
lock-out

83a. The Board shall file in the office of the Registrar of the Supreme Court a copy of a direction made under section 82 or 83, exclusive of the reasons therefor, whereupon the direction shall be entered in the same way as a judgment or order of that court and is enforceable as such.

Enforcement  
of direction  
by Supreme  
Court

23. Section 89 of the said Act is amended by inserting after "section" in the fifth line "82, 83 or".

s. 89,  
amended

24. Section 91 of the said Act is amended by adding thereto the following subsection:

s. 91,  
amended

(11a) Notwithstanding subsections 9, 10 and 11, and where in his opinion it is advisable to do so, the chairman, or in the case of his absence or inability to act the alternate chairman, may sit alone to hear and determine or may authorize a vice-chairman to sit alone to hear and determine any application, request, complaint, matter or thing in respect of section 60 or 60a or section 82, 83 or 123, and to exercise all of the jurisdiction and powers of the Board when so sitting.

When  
chairman  
or vice-  
chairman  
may sit  
alone

25. Section 98 of the said Act is repealed and the following substituted therefor:

s. 98,  
re-enacted

98. Except with the consent of the Board, no member of the Board, nor its registrar, nor any of its other officers, nor any of its clerks or servants shall be required to give testimony in any civil suit or in any proceeding before the

Testimony  
in civil  
suits,  
etc.

Board or in any proceeding before any other tribunal respecting information obtained in the discharge of their duties or while acting within the scope of their employment under this Act.

s. 100 (6),  
re-enacted

- 26.** Subsection 6 of section 100 of the said Act is repealed and the following substituted therefor:

Secrecy of  
information  
given labour  
relations  
officers

(6) No information or material furnished to or received by a labour relations officer under this Act and no report of a labour relations officer shall be disclosed except to the Board or as authorized by the Board, and no member of the Board and no labour relations officer is a competent or compellable witness in proceedings before a court, the Board or other tribunal respecting any such information, material or report.

s. 102 (4),  
amended

- 27.** Subsection 4 of section 102 of the said Act is amended by inserting after "section" in the fourth line "82, 83 or".

s. 105 (d),  
re-enacted

- 28.—**(1) Clause *d* of section 105 of the said Act is repealed and the following substituted therefor:

(d) prescribing amounts for the expense of proceedings under section 112*a* and providing for the adjustment of such amounts in exceptional circumstances.

s. 105 (e),  
amended

(2) Clause *e* of the said section 105 is amended by inserting after "81" in the third line "83*a*".

s. 106 (e),  
amended

- 29.** Clause *e* of section 106 of the said Act is amended by striking out "sewers, tunnels" in the fourth line and inserting in lieu thereof "sewers".

s. 112*a*,  
enacted

- 30.** The said Act is further amended by adding thereto the following section:

Referral of  
grievance  
to Board

112*a*.—(1) Notwithstanding the grievance and arbitration provisions in a collective agreement or deemed to be included in a collective agreement under section 37, either party to a collective agreement between an employer or employers' organization and a trade union or council of trade unions may refer a grievance concerning the interpretation, application, administration or alleged violation of the agreement, including any question as to whether a matter is arbitrable, to the Board for final and binding determination.

Hearing

(2) A referral under subsection 1 may be made in writing in the prescribed form by the party at any time after delivery of the written grievance to the other party, and

SECTION 26. Subsection 6 of section 100 of the Act is re-enacted to refer to a "labour relations officer" instead of a "field officer" and to refer to proceedings before the Board. The re-enactment is complementary to the amendments to sections 79 and 98 of the Act contained in this Bill.

SECTION 27. Subsection 4 of section 102 of the Act is amended complementary to the re-enactment of sections 82 and 83 of the Act by this Bill.

SECTION 28. The repeal of clause *d* of section 105 of the Act is complementary to the enactment of new section 76*a* by this Bill. New clause *d* is complementary to subsection 4 of section 112*a* of the Act.

Clause *e* of section 105 of the Act is amended complementary to the re-enactment of section 83*a* of the Act by this Bill.

SECTION 29. The definition of "sector" in the construction industry portion of the Act is amended to remove the reference to "tunnels" since tunnels are not exclusively constructed by employers operating in the sewers and watermains sector of the construction industry.

SECTION 30. New section 112*a* of the Act provides for the referral of grievances in respect of collective agreements in the construction industry to the Board for hearing and determination.

SECTION 31. The amendment adds discrimination because of age or sex to the reasons for which the Board is not to accredit an employers' organization and is complementary to the amendments to sections 12 and 40 of the Act.

SECTION 32. Subsection 3 of section 123 of the Act provides for the filing of a direction of the Board in the office of the Registrar of the Supreme Court in the same way as a judgment or order of that court. The amendment provides for enforcement of the direction.




the Board shall appoint a date for and hold a hearing within fourteen days after receipt of the referral and may appoint a labour relations officer to confer with the parties and endeavour to effect a settlement before the hearing.


(3) Upon a referral under subsection 1, the Board has exclusive jurisdiction to hear and determine the difference or allegation raised in the grievance referred to it, including any question as to whether the matter is arbitrable, and the provisions of subsections 5a, 7, 8, 9, 10 and 11 of section 37 apply *mutatis mutandis* to the Board and to the enforcement of the decision of the Board. <sup>Jurisdiction of Board</sup>

(4) The expense of proceedings under this section, in the amount fixed by the regulations, shall be jointly paid by the parties to the Board for payment into the Consolidated Revenue Fund. <sup>Expense</sup>

**31.** Subsection 5 of section 115 of the said Act is amended by inserting after "ancestry" in the fifth line "age, sex". <sup>s. 115 (5), amended</sup>

**32.** Subsection 3 of section 123 of the said Act is amended by adding at the end thereof "and is enforceable as such". <sup>s. 123 (3), amended</sup>

 **33.**—(1) This Act, except subsection 1 of section 1, subsection 4 of section 3 and sections 6, 12 and 31, comes into force on the day it receives Royal Assent. <sup>Commencement</sup>

(2) Subsection 1 of section 1, subsection 4 of section 3 and sections 6, 12 and 31 come into force on a day to be named by proclamation of the Lieutenant Governor. <sup>Idem</sup> 

**34.** This Act may be cited as *The Labour Relations Amendment Act, 1975*. <sup>Short title</sup>

An Act to amend  
The Labour Relations Act

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*1st Reading*

June 13th, 1975

*2nd Reading*

July 2nd, 1975

*3rd Reading*

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THE HON. J. P. MACBETH  
Minister of Labour

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*(Reprinted as amended by the  
Committee of the Whole House)*

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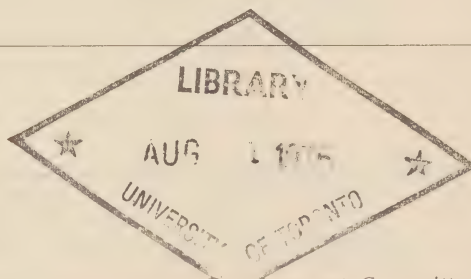
Government  
Publications  
Government Bill

5TH SESSION, 29TH LEGISLATURE, ONTARIO  
24 ELIZABETH II, 1975

Ontario. Legislative Assembly

## An Act to amend The Labour Relations Act

THE HON. J. P. MACBETH  
Minister of Labour



*(Reprinted as amended by the Resources Development Committee)*

TORONTO

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#### EXPLANATORY NOTES

SECTION 1.—Subsection 1. The term “employee” is defined to include “dependent contractor” to bring dependent contractors within the application of the Act and the term “dependent contractor” is defined.

Subsection 2. The subsection provides for the treating of two or more associated or related businesses as one employer. The subsection is re-enacted to include instances where two or more businesses do not operate simultaneously and also to permit direct applications to the Board under this subsection.

New subsection 5 of section 1 of the Act places the responsibility upon the employer to make all material facts known to the Board in a hearing to determine whether associated or related companies should be considered a single employer.

## An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 1 of *The Labour Relations Act*, <sup>s. 1 (1), amended</sup> being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following clauses:

(ga) “dependent contractor” means a person, whether or not employed under a contract of employment, and whether or not furnishing his own tools, vehicles, equipment, machinery, material, or any other thing, who performs work or services for another person for compensation or reward on such terms and conditions that he is in a position of economic dependence upon, and under an obligation to perform duties for, that person more closely resembling the relationship of an employee than that of an independent contractor;

(gb) “employee” includes a dependent contractor.

- (2) Subsection 4 of the said section 1 is repealed and the <sup>s. 1 (4), re-enacted</sup> following substituted therefor:

(4) Where, in the opinion of the Board, associated or <sup>Idem</sup> related activities or businesses are carried on, whether or not simultaneously, by or through more than one corporation, individual, firm, syndicate or association or any combination thereof, under common control or direction, the Board may, upon the application of any person, trade union or council of trade unions concerned, treat the corporations, individuals, firms, syndicates or associations or any combination thereof as constituting one employer for the purposes of this Act and grant such relief, by way of declaration or otherwise, as it may deem appropriate.

- (5) Where, in an application made pursuant to subsection <sup>Duty of respondents</sup> 4, it is alleged that more than one corporation, individual,

firm, syndicate or association or any combination thereof are or were under common control or direction, the respondents to the application shall adduce at the hearing all facts within their knowledge that are material to the allegation.

s. 2 (f),  
re-enacted

2. Clause *f* of section 2 of the said Act is repealed and the following substituted therefor:

1975, c.

(*f*) to a teacher as defined in *The School Boards and Teachers Collective Negotiations Act, 1975*, except as provided in that Act.

s. 6 (1),  
amended

- 3.—(1) Subsection 1 of section 6 of the said Act is amended by adding at the commencement thereof "Subject to subsection 1*a*".

s. 6,  
amended

- (2) The said section 6 is amended by adding thereto the following subsection:

Certifica-  
tion  
pending  
resolution  
of composi-  
tion of  
bargaining  
unit

(1*a*) Where, upon an application for certification, the Board is satisfied that any dispute as to the composition of the bargaining unit cannot affect the trade union's right to certification, the Board may certify the trade union as the bargaining agent pending the final resolution of the composition of the bargaining unit.

s. 6 (2),  
re-enacted

- (3) Subsection 2 of the said section 6 is repealed and the following substituted therefor:

Crafts  
units

(2) Any group of employees who exercise technical skills or who are members of a craft by reason of which they are distinguishable from the other employees and commonly bargain separately and apart from other employees through a trade union that according to established trade union practice pertains to such skills or crafts shall be deemed by the Board to be a unit appropriate for collective bargaining if the application is made by a trade union pertaining to such skills or craft, and the Board may include in such unit persons who according to established trade union practice are commonly associated in their work and bargaining with such group, but the Board shall not be required to apply this subsection where the group of employees is included in a bargaining unit represented by another bargaining agent at the time the application is made.

s. 6,  
amended

- (4) The said section 6 is further amended by adding thereto the following subsection:

Dependent  
contractors

(4) A bargaining unit consisting solely of dependent contractors shall be deemed by the Board to be a unit of



SECTION 2. The reference in the re-enacted clause is brought up to date.

SECTION 3.—Subsection 1. Complementary to subsection 2.

Subsection 2. New subsection 1*a* of section 6 of the Act provides for certification of a trade union as bargaining agent for a bargaining unit where the final composition of the bargaining unit is still to be resolved, but it is clear that the trade union is entitled to certification.

Subsection 3. The subsection is re-enacted to remove the reference to employees exercising a combination of technical skills or performing the skills of more than one craft.

Subsection 4. The subsection provides for bargaining units consisting solely of dependent contractors.

SECTION 4.—Subsections 1 and 2. The membership requirement for certification is changed from 65 per cent to 55 per cent and the requirement for a vote is changed from 35 per cent to 45 per cent.

Subsection 3. The repeal of subsection 4 of section 7 of the Act is complementary to the enactment of new section 7*a* of the Act.

Subsection 4. Self-explanatory.

SECTION 5. New section 7*a* of the Act permits the Board to certify a trade union as bargaining agent without a vote when an employer's contravention of the Act makes it unlikely that the true wishes of the employees can be ascertained.

SECTION 6. The amendment expands the prohibition against discrimination in admission to trade union membership to include age and sex as prohibited considerations.

SECTION 7. New section 34*a* of the Act provides for the appointment by the Minister of persons knowledgeable in industrial relations as special officers to confer with and assist parties to collective agreements in respect of their current relationships and anticipated bargaining problems.

New section 34*b* of the Act provides for the appointment of a Disputes Advisory Committee that may be convened at the request of the Minister to confer with, advise and assist parties during the course of collective bargaining.

New section 34*c* of the Act provides that the parties may refer the matters remaining in dispute between them to binding arbitration.

Section 37 of the Act, referred to in subsection 2 of section 34*c*, sets out the powers of an arbitrator or board of arbitration and the effect of the decision. Subsections 12 and 13 of section 37 are new in this Bill.

employees appropriate for collective bargaining but the Board may include dependent contractors in a bargaining unit with other employees if the Board is satisfied that a majority of such dependent contractors wish to be included in such bargaining unit.

- 4.—(1) Subsection 2 of section 7 of the said Act is amended by striking out “35” in the first line and inserting in lieu thereof “45” and by striking out “65” in the second line and in the fourth line and inserting in lieu thereof in each instance “55”. s. 7 (2),  
amended
- (2) Subsection 3 of the said section 7 is amended by striking out “65” in the third line and inserting in lieu thereof “55”. s. 7 (3),  
amended
- (3) Subsection 4 of the said section 7 is repealed. s. 7 (4),  
repealed
- (4) This section does not apply in respect of applications for certification made before this section comes into force. Application  
of section
5. The said Act is amended by adding thereto the following section: s. 7a,  
enacted
- 7a. Where an employer or employers’ organization contravenes this Act so that the true wishes of the employees of the employer or of a member of the employers’ organization are not likely to be ascertained, and, in the opinion of the Board, a trade union has membership support adequate for the purposes of collective bargaining in a bargaining unit found by the Board pursuant to section 6 to be appropriate for collective bargaining, the Board may, on the application of the trade union, certify the trade union as the bargaining agent of the employees in the bargaining unit. Certifi-  
cation  
where Act  
contravened
6. Section 12 of the said Act is amended by adding after “ancestry” in the fifth line “age, sex”. s. 12,  
amended
7. The said Act is further amended by adding thereto the following sections: ss. 34a-34d,  
enacted

34a.—(1) Where, at any time during the operation of a collective agreement, the Minister considers that it will promote more harmonious industrial relations between the parties, he may appoint a special officer to confer with the parties and assist them in an examination and discussion of their current relationship or the resolution of anticipated bargaining problems. Appointment  
of special  
officer

Duties of  
special  
officer

(2) A special officer appointed under subsection 1 shall confer with the parties and shall report to the Minister within thirty days of his appointment and upon the filing of his report his appointment shall terminate unless it is extended by the Minister.

Qualifi-  
cations  
of special  
officer

(3) Any person knowledgeable in industrial relations may be appointed a special officer, whether or not he is an employee of the Crown.

Disputes  
Advisory  
Committee

34b.—(1) The Minister may appoint a Disputes Advisory Committee composed of one or more representatives of employers and one or more representatives of employees.

Purpose of  
Committee

(2) At any time during the course of bargaining, either before or after the commencement of a strike or lock-out, where it appears to the Minister that the normal conciliation and mediation procedures have been exhausted, the Minister may request that the Disputes Advisory Committee be convened to confer with, advise and assist the bargaining parties.

Voluntary  
arbitration

34c.—(1) Notwithstanding any other provision of this Act, the parties may at any time following the giving of notice of desire to bargain under section 13 or 45, irrevocably agree in writing to refer all matters remaining in dispute between them to an arbitrator or a board of arbitration for final and binding determination.

Powers of  
arbitrator  
or board of  
arbitration

(2) The agreement to arbitrate shall supersede all other dispute settlement provisions of this Act, including those provisions relating to conciliation, mediation, strike and lock-out, and the provisions of subsections 6, 7, 9, 10 and 11 of section 37 apply *mutatis mutandis* to the proceedings before the arbitrator or board of arbitration and to its decision under this section.

Effect  
of  
agreement

(3) For the purposes of section 53 and section 112, an irrevocable agreement in writing referred to in subsection 1 shall have the same effect as a collective agreement.

Where  
Minister  
may require  
ratification  
vote

34d. Where, at any time after the commencement of a strike or lock-out, the Minister is of the opinion that it is in the public interest that the employees in the affected bargaining unit be given the opportunity to accept or reject the offer of the employer last received by the trade union in respect of all matters remaining in dispute between the parties, the Minister may, on such terms as he considers necessary, direct that a vote of the employees in the bargaining unit to accept or reject the offer be held forthwith.



SECTION 8. Subsections 1 and 2 of section 35 of the Act require collective agreements to include recognition of exclusive bargaining rights of the trade union that is a party and of an accredited employer's organization that is a party to the agreement. The amendment will deem these provisions to be included in the agreements. Subsection 3 of section 35 of the Act provides for an application to the Board to add the provision to an agreement and the repeal is complementary to the amendment of subsections 1 and 2.

SECTION 9. The new section 36*a* of the Act provides, except in the construction industry, for the inclusion in a collective agreement, at the request of the trade union that is the bargaining agent, of a requirement for the voluntary deduction and remittance by the employer of union dues payable by those employees of the bargaining unit who give written requests for the deductions and remittances.

SECTION 10. Section 37 of the Act deals with the arbitration of differences between parties to a collective agreement. The new subsection 5*a* of section 37 provides for extension of the time for taking any step or the grievance procedure under a collective agreement.



8.—(1) Subsection 1 of section 35 of the said Act is amended by inserting after “shall” in the first line “be deemed to”. s. 35 (1),  
amended

(2) Subsection 2 of the said section 35 is amended by inserting after “shall” in the second line “be deemed to”. s. 35 (2),  
amended

(3) Subsection 3 of the said section 35 is repealed. s. 35 (3),  
repealed

9. The said Act is amended by adding thereto the following section: s. 36a,  
enacted

36a.—(1) Except in the construction industry, where a trade union that is the bargaining agent for employees in a bargaining unit so requests, there shall be included in the collective agreement between the trade union and the employer of the employees a provision that at the written request of an employee in the bargaining unit the employer shall deduct from the wages of the employee the amount of the regular union dues payable by members of the trade union and remit the amount to the trade union. Deduction  
and  
remittance  
of union  
dues

(2) In subsection 1, “regular union dues” means, Interpre-  
tation

(a) in the case of an employee who is a member of the trade union, the dues uniformly and regularly paid by a member of the trade union in accordance with the constitution and by-laws of the trade union; and

(b) in the case of an employee who is not a member of the trade union, the dues referred to in clause a, excluding any amount in respect of pension, superannuation, sickness insurance or any other benefit available only to members of the trade union.

10. Section 37 of the said Act is amended by adding thereto the following subsection: s. 37,  
amended

(5a) Except where a collective agreement states that this subsection does not apply, an arbitrator or arbitration board may extend the time for the taking of any step in the grievance procedure under a collective agreement, notwithstanding the expiration of such time, where the arbitrator or arbitration board is satisfied that there are reasonable grounds for the extension and that the opposite party will not be substantially prejudiced by the extension. Extension  
of time

s. 38 (4),  
amended

- 11.** Subsection 4 of section 38 of the said Act is amended by striking out “65” in the sixth line and inserting in lieu thereof “55”.

s. 40 (b),  
amended

- 12.** Clause *b* of section 40 of the said Act is amended by inserting after “ancestry” in the second line “age, sex”.

s. 44 (2),  
re-enacted

- 13.** Subsection 2 of section 44 of the said Act is repealed and the following substituted therefor:

Extension  
of term of  
collective  
agreement

(2) Notwithstanding subsection 1, the parties may, in a collective agreement or otherwise and before or after the collective agreement has ceased to operate, agree to continue the operation of the collective agreement or any of its provisions for a period of less than one year while they are bargaining for its renewal with or without modifications or for a new agreement, but such continued operation does not bar an application for certification or for a declaration that the trade union no longer represents the employees in the bargaining unit and the continuation of the collective agreement may be terminated by either party upon thirty days notice to the other party.

s. 49 (3),  
amended

- 14.** Subsection 3 of section 49 of the said Act is amended by striking out “50” in the third line and in the seventh line and inserting in lieu thereof in each instance “45”.

s. 55 (3),  
re-enacted

- 15.—(1)** Subsection 3 of section 55 of the said Act is repealed and the following substituted therefor:

Idem

(3) Where an employer on behalf of whose employees a trade union or council of trade unions, as the case may be, has been certified as bargaining agent or has given or is entitled to give notice under section 13 or 45, sells his business, the trade union, or council of trade unions continues, until the Board otherwise declares, to be the bargaining agent for the employees of the person to whom the business was sold in the like bargaining unit in that business, and the trade union or council of trade unions is entitled to give to the person to whom the business was sold a written notice of its desire to bargain with a view to making a collective agreement or the renewal, with or without modifications, of the agreement then in operation and such notice has the same effect as a notice under section 13 or 45, as the case requires.

s. 55,  
amended

- (2) The said section 55 is amended by adding thereto the following subsection:

SECTION 11. The amendment brings the provision with regard to union security into line with the corresponding change in the certification provisions of section 7 of the Act.

SECTION 12. The amendment is complementary to the amendment of section 12 of the Act and expands the prohibition against discrimination to include age and sex.

SECTION 13. Subsection 2 of section 44 of the Act provides that the parties may extend the provisions of a collective agreement while bargaining for its renewal. The subsection is re-enacted for clarification and to provide for termination of the extension.

SECTION 14. The amendment changes from 50 per cent to 45 per cent the percentage of employees in a bargaining unit who must signify their desire to have a trade union's bargaining rights terminated by the Board in order that the Board must conduct a vote. The amendment is complementary to the amendments to section 7 of the Act.

SECTION 15.—Subsection 1. The subsection is re-enacted for clarification and to include a reference to section 45 of the Act under which a party may give notice of desire to bargain for renewal of an agreement.

Subsection 2. The subsection places the responsibility upon the employers for making known to the Board all material facts when a trade union alleges that the sale of a business has occurred.

SECTION 16. Self-explanatory.

SECTION 17. The subsection is re-enacted to clarify the provisions as to time.

SECTION 18. The subsection is re-enacted for clarification and to more closely parallel the wording of subsection 1 of the section.

(13) Where, on an application under this section, a trade union alleges that the sale of a business has occurred, the respondents to the application shall adduce at the hearing all facts within their knowledge that are material to the allegation. Duty of respondents

16. The said Act is further amended by adding thereto the following section: s. 60a, enacted

60a. Where, pursuant to a collective agreement, a trade union is engaged in the selection, referral, assignment, designation or scheduling of persons to employment, it shall not act in a manner that is arbitrary, discriminatory or in bad faith. Duty of fair referral, etc., by trade unions

17. Subsection 2 of section 63 of the said Act is repealed and the following substituted therefor: s. 63 (2), re-enacted

(2) Where no collective agreement is in operation, no employee shall strike and no employer shall lock out an employee until the Minister has appointed a conciliation officer or a mediator under this Act and, No agreement

(a) seven days have elapsed after the day the Minister has released or is deemed pursuant to subsection 3 of section 102 to have released to the parties the report of a conciliation board or mediator; or

(b) fourteen days have elapsed after the day the Minister has released or is deemed pursuant to subsection 3 of section 102 to have released to the parties a notice that he does not consider it advisable to appoint a conciliation board.

18. Subsection 2 of section 70 of the said Act is repealed and the following substituted therefor: s. 70 (2), re-enacted

(2) Where a trade union has applied for certification and notice thereof from the Board has been received by the employer, the employer shall not, except with the consent of the trade union, alter the rates of wages or any other term or condition of employment or any right, privilege or duty, of the employer or the employees until, Idem

(a) the trade union has given notice under section 13, in which case subsection 1 applies; or

- (b) the application for certification by the trade union is dismissed or terminated by the Board, or withdrawn by the trade union.

s. 76,  
amended

- 19.** Section 76 of the said Act is amended by adding thereto the following subsection:

Complaint  
that  
financial  
statement  
inadequate

(2) Where a member of a trade union complains that an audited financial statement is inadequate, the Board may inquire into the complaint and the Board may order the trade union to prepare another audited financial statement in a form and containing such particulars as the Board considers appropriate and the Board may further order that the audited financial statement, as rectified, be certified by a person licensed under *The Public Accountancy Act* or a firm whose partners are licensed under that Act.

R.S.O. 1970,  
c. 373

s. 76a,  
enacted

- 20.** The said Act is further amended by adding thereto the following section:

Interpre-  
tation



76a.—(1) In this section, “administrator” means any trade union, trustee or person responsible for the control, management or disposition of moneys received or contributed to a vacation pay fund or a welfare benefit or pension plan or fund for the members of a trade union or their survivors or beneficiaries.



Annual filing  
of statement

(2) Every administrator shall file annually with the Minister not later than the 1st day of June in each year or at such other time or times as the Minister may direct, a copy of the audited financial statement certified by a person licensed under *The Public Accountancy Act* or a firm whose partners are licensed under that Act of a vacation pay fund, or a welfare benefit or pension plan or fund setting out its financial condition for the preceding fiscal year and disclosing,

- (a) a description of the coverage provided by the fund or plan;
- (b) the amount contributed by each employer;
- (c) the amounts contributed by the members and the trade union, if any;



SECTION 19. The subsection authorizes the Board to order trade unions to provide complete financial statements and to require that they be certified by a public accountant.

SECTION 20. The section requires that detailed audited financial reports of trustees of trade union pension and welfare funds be filed annually with the Minister and that members of the trade unions may obtain copies of the statements from the administrators of the funds upon request and without charge.

SECTION 21. Subsection 1 of section 79 of the Act sets out the cases into which the Board may authorize a field officer to make an inquiry. The subsection is re-enacted to provide that the Board may authorize a labour relations officer to inquire into any complaint alleging a contravention of the Act.

Subsections 2 and 3 of section 79 are re-enacted to refer to a "labour relations officer" instead of a "field officer".

Subsection 4 of section 79, which provides for the authority of the Board to act on complaints referred to in subsection 1, is re-enacted to provide a complementary wider authority to act on the complaints.

New subsection 4a of section 79 of the Act reverses the burden of proof where it is alleged that any person, employer or employers' organization has acted contrary to the Act with respect to employment, opportunity for employment or conditions of employment.

Subsection 6 of section 79 is amended to refer to a "labour relations officer" instead of a "field officer".

- (d) a statement of the assets, specifying the total amount of each type of asset;
- (e) a statement of liabilities, receipts and disbursements;
- (f) a statement of salaries, fees and commissions charged to the fund or plan, to whom paid, in what amount and for what purposes; and
- (g) such further information as the Minister may require.

(3) The administrator, upon the request in writing of any member of the trade union whose employer has made payments or contributions into the fund or plan, shall furnish to the member without charge a copy of the audited financial statement required to be filed by subsection 2.

Furnishing of copy to member of trade union

(4) Where an administrator has failed to comply with subsection 2 or 3, upon a certificate of failure so to comply signed by the Minister or upon complaint by the member, the Board may direct the administrator to comply within such time as the Board may determine.

Where Board may direct compliance

**21.**—(1) Subsections 1, 2, 3 and 4 of section 79 of the said Act are repealed and the following substituted therefor:

s. 79 (1-4), re-enacted

(1) The Board may authorize a labour relations officer to inquire into any complaint alleging a contravention of this Act.

Inquiry by labour relations officer

(2) The labour relations officer shall forthwith inquire into the complaint and endeavour to effect a settlement of the matter complained of.

Duties

(3) The labour relations officer shall report the results of his inquiry and endeavours to the Board.

Report

(4) Where a labour relations officer is unable to effect a settlement of the matter complained of or where the Board in its discretion considers it advisable to dispense with an inquiry by a labour relations officer, the Board may inquire into the complaint of a contravention of this Act and where the Board is satisfied that an employer, employers' organization, trade union, council of trade unions, person or employee has acted contrary to this Act it shall determine what, if anything, the employer, employers' organization, trade union, council of trade unions, person or employee shall do or refrain from doing with respect thereto and such

Remedy for discrimination

determination, without limiting the generality of the foregoing may include, notwithstanding the provisions of any collective agreement, any one or more of,

- (a) an order directing the employer, employers' organization, trade union, council of trade unions, employee or other person to cease doing the act or acts complained of;
- (b) an order directing the employer, employers' organization, trade union, council of trade unions, employee or other person to rectify the act or acts complained of; or
- (c) an order to reinstate in employment or hire the person or employee concerned, with or without compensation, or to compensate in lieu of hiring or reinstatement for loss of earnings or other employment benefits in an amount that may be assessed by the Board against the employer, employers' organization, trade union, council of trade unions, employee or other person jointly or severally.

Burden of  
proof

(4a) On an inquiry by the Board into a complaint under subsection 4 that a person has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act as to his employment, opportunity for employment or conditions of employment, the burden of proof that any employer or employers' organization did not act contrary to this Act lies upon the employer or employers' organization.

s. 79 (6),  
amended

- (2) Subsection 6 of the said section 79 is amended by striking out "field" in the second line and inserting in lieu thereof "labour relations" and by striking out "clause a, b or c of subsection 1, as the case may be" in the eleventh and twelfth lines and inserting in lieu thereof "subsection 1".

ss. 82, 83,  
re-enacted

**22.** Sections 82 and 83 of the said Act are repealed and the following substituted therefor:

Declaration  
and direction  
by Board  
in respect  
of unlawful  
strike

82. Where, on the complaint of a trade union, council of trade unions, employer or employers' organization, the Board is satisfied that a trade union or council of trade unions called or authorized or threatened to call or authorize an unlawful strike or that an officer, official or agent of a trade union or council of trade unions counselled or procured or supported or encouraged an unlawful strike or threatened to engage in an unlawful strike or engaged in or threatened to engage in an unlawful strike, the Board may so declare and, in addition, in its discretion,

SECTION 22. Sections 82 and 83 of the Act, which authorize the Board to declare that a strike or a lock-out is unlawful, are re-enacted to provide that the Board, in addition, may direct what action shall be taken or not taken by those involved.

New section 83*a* of the Act provides for enforcement of the direction of the Board and is similar to subsection 3 of section 123 of the Act which applies to the construction industry.

SECTION 23. The amendment to section 89 of the Act is complementary to the re-enactment of sections 82 and 83 of the Act by this Bill.

SECTION 24. New subsection 11*a* of section 91 of the Act permits the chairman or a vice-chairman of the Board to sit alone to hear and determine matters related to fair representation (section 60), fair referral to work (section 60*a*, enacted by this Bill), unlawful strikes (section 82, re-enacted by this Bill), unlawful lock-outs (section 83, re-enacted by this Bill) and unlawful construction industry strikes and lock-outs (section 123) where the chairman or in the case of his absence or inability to act, the alternate chairman, considers it advisable.

SECTION 25. Section 98 of the Act, which protects the Board and its staff from being compelled to give testimony in civil suits, is re-enacted to extend the protection to proceedings before the Board or any other tribunal, to extend the scope of the protected information and to add a provision permitting the Board to waive the protection.



it may direct what action if any a person, employee, employer, employers' organization, trade union or council of trade unions and their officers, officials or agents shall do or refrain from doing with respect to the unlawful strike or the threat of an unlawful strike.

83. Where, on the complaint of a trade union, council of trade unions, employer or employers' organization, the Board is satisfied that an employer or employers organization called or authorized or threatened to call or authorize an unlawful lock-out or locked out or threatened to lock out employees or that an officer, official or agent of an employer or employers' organization counselled or procured or supported or encouraged an unlawful lock-out or threatened an unlawful lock-out, the Board may so declare and, in addition, in its discretion, it may direct what action if any a person, employee, employer, employers' organization, trade union or council of trade unions and their officers, officials or agents shall do or refrain from doing with respect to the unlawful lock-out or the threat of an unlawful lock-out.

Declaration and direction by Board in respect of unlawful lock-out

83a. The Board shall file in the office of the Registrar of the Supreme Court a copy of a direction made under section 82 or 83, exclusive of the reasons therefor, whereupon the direction shall be entered in the same way as a judgment or order of that court and is enforceable as such.

Enforcement of direction by Supreme Court

**23.** Section 89 of the said Act is amended by inserting after "section" in the fifth line "82, 83 or".

s. 89, amended

**24.** Section 91 of the said Act is amended by adding thereto the following subsection:

s. 91, amended

(11a) Notwithstanding subsections 9, 10 and 11, and where in his opinion it is advisable to do so, the chairman, or in the case of his absence or inability to act the alternate chairman, may sit alone to hear and determine or may authorize a vice-chairman to sit alone to hear and determine any application, request, complaint, matter or thing in respect of section 60 or 60a or section 82, 83 or 123, and to exercise all of the jurisdiction and powers of the Board when so sitting.

When chairman or vice-chairman may sit alone

**25.** Section 98 of the said Act is repealed and the following substituted therefor:

s. 98, re-enacted

98. Except with the consent of the Board, no member of the Board, nor its registrar, nor any of its other officers, nor any of its clerks or servants shall be required to give testimony in any civil suit or in any proceeding before the

Testimony in civil suits, etc.

Board or in any proceeding before any other tribunal respecting information obtained in the discharge of their duties or while acting within the scope of their employment under this Act.

s. 100 (6),  
re-enacted

- 26.** Subsection 6 of section 100 of the said Act is repealed and the following substituted therefor:

Secrecy of  
information  
given labour  
relations  
officers

(6) No information or material furnished to or received by a labour relations officer under this Act and no report of a labour relations officer shall be disclosed except to the Board or as authorized by the Board, and no member of the Board and no labour relations officer is a competent or compellable witness in proceedings before a court, the Board or other tribunal respecting any such information, material or report.

s. 102 (4),  
amended

- 27.** Subsection 4 of section 102 of the said Act is amended by inserting after "section" in the fourth line "82, 83 or".

s. 105 (d),  
re-enacted

- 28.—**(1) Clause *d* of section 105 of the said Act is repealed and the following substituted therefor:

(*d*) prescribing amounts for the expense of proceedings under section 112*a* and providing for the adjustment of such amounts in exceptional circumstances.

s. 105 (e),  
amended

(2) Clause *e* of the said section 105 is amended by inserting after "81" in the third line "83*a*".

s. 106 (e),  
amended

- 29.** Clause *e* of section 106 of the said Act is amended by striking out "sewers, tunnels" in the fourth line and inserting in lieu thereof "sewers".

s. 112*a*,  
enacted

- 30.** The said Act is further amended by adding thereto the following section:

Referral of  
grievance  
to Board

112*a*.—(1) Notwithstanding the grievance and arbitration provisions in a collective agreement or deemed to be included in a collective agreement under section 37, either party to a collective agreement between an employer or employers' organization and a trade union or council of trade unions may refer a grievance concerning the interpretation, application, administration or alleged violation of the agreement, including any question as to whether a matter is arbitrable, to the Board for final and binding determination.

Hearing

(2) A referral under subsection 1 may be made in writing in the prescribed form by the party at any time after delivery of the written grievance to the other party, and

SECTION 26. Subsection 6 of section 100 of the Act is re-enacted to refer to a "labour relations officer" instead of a "field officer" and to refer to proceedings before the Board. The re-enactment is complementary to the amendments to sections 79 and 98 of the Act contained in this Bill.

SECTION 27. Subsection 4 of section 102 of the Act is amended complementary to the re-enactment of sections 82 and 83 of the Act by this Bill.

SECTION 28. The repeal of clause *d* of section 105 of the Act is complementary to the enactment of new section 76*a* by this Bill. New clause *d* is complementary to subsection 4 of section 112*a* of the Act.

Clause *e* of section 105 of the Act is amended complementary to the re-enactment of section 83*a* of the Act by this Bill.

SECTION 29. The definition of "sector" in the construction industry portion of the Act is amended to remove the reference to "tunnels" since tunnels are not exclusively constructed by employers operating in the sewers and watermain sector of the construction industry.

SECTION 30. New section 112*a* of the Act provides for the referral of grievances in respect of collective agreements in the construction industry to the Board for hearing and determination.

SECTION 31. The amendment adds discrimination because of age or sex to the reasons for which the Board is not to accredit an employers' organization and is complementary to the amendments to sections 12 and 40 of the Act.



SECTION 32. Subsection 3 of section 123 of the Act provides for the filing of a direction of the Board in the office of the Registrar of the Supreme Court in the same way as a judgment or order of that court. The amendment provides for enforcement of the direction.

the Board shall appoint a date for and hold a hearing within fourteen days after receipt of the referral and may appoint a labour relations officer to confer with the parties and endeavour to effect a settlement before the hearing.

(3) Upon a referral under subsection 1, the Board has <sup>Jurisdiction of Board</sup> exclusive jurisdiction to hear and determine the difference or allegation raised in the grievance referred to it, including any question as to whether the matter is arbitrable, and the provisions of subsections 5a, 7, 8, 9, 10 and 11 of section 37 apply *mutatis mutandis* to the Board and to the enforcement of the decision of the Board.

(4) The expense of proceedings under this section, in the <sup>Expense</sup> amount fixed by the regulations, shall be jointly paid by the parties to the Board for payment into the Consolidated Revenue Fund.

**31.** Subsection 5 of section 115 of the said Act is amended by <sup>s. 115 (5), amended</sup> inserting after "ancestry" in the fifth line "age, sex".

 **32.** Subsection 3 of section 123 of the said Act is amended by <sup>s. 123 (3), amended</sup> adding at the end thereof "and is enforceable as such". 

**33.**—(1) This Act, except sections 6, 12 and 31, comes into force <sup>Commence-</sup> on the day it receives Royal Assent.

(2) Sections 6, 12 and 31 come into force on a day to be <sup>Idem</sup> named by proclamation of the Lieutenant Governor.

**34.** This Act may be cited as *The Labour Relations Amendment* <sup>Short title</sup> *Act, 1975*.

An Act to amend  
The Labour Relations Act

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*1st Reading*

June 13th, 1975

*2nd Reading*

July 2nd, 1975

*3rd Reading*

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THE HON. J. P. MACBETH  
Minister of Labour

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(*Reprinted as amended by the  
Resources Development Committee*)



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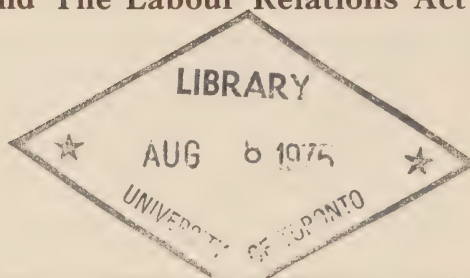
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24 ELIZABETH II, 1975

Ontario. Legislative Assembly

An Act to amend The Labour Relations Act



THE HON. J. P. MACBETH  
Minister of Labour

TORONTO

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## An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 1 of *The Labour Relations Act*, <sup>s. 1 (1),  
amended</sup> being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following clauses:

(ga) “dependent contractor” means a person, whether or not employed under a contract of employment, and whether or not furnishing his own tools, vehicles, equipment, machinery, material, or any other thing, who performs work or services for another person for compensation or reward on such terms and conditions that he is in a position of economic dependence upon, and under an obligation to perform duties for, that person more closely resembling the relationship of an employee than that of an independent contractor;

(gb) “employee” includes a dependent contractor.

- (2) Subsection 4 of the said section 1 is repealed and the <sup>s. 1 (4),  
re-enacted</sup> following substituted therefor:

(4) Where, in the opinion of the Board, associated or <sup>Idem</sup> related activities or businesses are carried on, whether or not simultaneously, by or through more than one corporation, individual, firm, syndicate or association or any combination thereof, under common control or direction, the Board may, upon the application of any person, trade union or council of trade unions concerned, treat the corporations, individuals, firms, syndicates or associations or any combination thereof as constituting one employer for the purposes of this Act and grant such relief, by way of declaration or otherwise, as it may deem appropriate.

- (5) Where, in an application made pursuant to subsection <sup>Duty of  
respondents</sup> 4, it is alleged that more than one corporation, individual,

firm, syndicate or association or any combination thereof are or were under common control or direction, the respondents to the application shall adduce at the hearing all facts within their knowledge that are material to the allegation.

s. 2 (f),  
re-enacted

2. Clause *f* of section 2 of the said Act is repealed and the following substituted therefor:

1975, c.

(f) to a teacher as defined in *The School Boards and Teachers Collective Negotiations Act, 1975*, except as provided in that Act.

s. 6 (1),  
amended

- 3.—(1) Subsection 1 of section 6 of the said Act is amended by adding at the commencement thereof "Subject to subsection 1*a*'".

s. 6,  
amended

- (2) The said section 6 is amended by adding thereto the following subsection:

Certifica-  
tion  
pending  
resolution  
of composi-  
tion of  
bargaining  
unit

(1*a*) Where, upon an application for certification, the Board is satisfied that any dispute as to the composition of the bargaining unit cannot affect the trade union's right to certification, the Board may certify the trade union as the bargaining agent pending the final resolution of the composition of the bargaining unit.

s. 6 (2),  
re-enacted

- (3) Subsection 2 of the said section 6 is repealed and the following substituted therefor:

Crafts  
units

(2) Any group of employees who exercise technical skills or who are members of a craft by reason of which they are distinguishable from the other employees and commonly bargain separately and apart from other employees through a trade union that according to established trade union practice pertains to such skills or crafts shall be deemed by the Board to be a unit appropriate for collective bargaining if the application is made by a trade union pertaining to such skills or craft, and the Board may include in such unit persons who according to established trade union practice are commonly associated in their work and bargaining with such group, but the Board shall not be required to apply this subsection where the group of employees is included in a bargaining unit represented by another bargaining agent at the time the application is made.

s. 6,  
amended

- (4) The said section 6 is further amended by adding thereto the following subsection:

Dependent  
contractors

(4) A bargaining unit consisting solely of dependent contractors shall be deemed by the Board to be a unit of

employees appropriate for collective bargaining but the Board may include dependent contractors in a bargaining unit with other employees if the Board is satisfied that a majority of such dependent contractors wish to be included in such bargaining unit.

- 4.—(1) Subsection 2 of section 7 of the said Act is amended by striking out “35” in the first line and inserting in lieu thereof “45” and by striking out “65” in the second line and in the fourth line and inserting in lieu thereof in each instance “55”. s. 7 (2),  
amended
- (2) Subsection 3 of the said section 7 is amended by striking out “65” in the third line and inserting in lieu thereof “55”. s. 7 (3),  
amended
- (3) Subsection 4 of the said section 7 is repealed. s. 7 (4),  
repealed
- (4) This section does not apply in respect of applications for certification made before this section comes into force. Application  
of section
5. The said Act is amended by adding thereto the following section: s. 7a,  
enacted
- 7a. Where an employer or employers’ organization contravenes this Act so that the true wishes of the employees of the employer or of a member of the employers’ organization are not likely to be ascertained, and, in the opinion of the Board, a trade union has membership support adequate for the purposes of collective bargaining in a bargaining unit found by the Board pursuant to section 6 to be appropriate for collective bargaining, the Board may, on the application of the trade union, certify the trade union as the bargaining agent of the employees in the bargaining unit. Certifi-  
cation  
where Act  
contravened
6. Section 12 of the said Act is amended by adding after “ancestry” in the fifth line “age, sex”. s. 12,  
amended
7. The said Act is further amended by adding thereto the following sections: ss. 34a-34d,  
enacted

34a.—(1) Where, at any time during the operation of a collective agreement, the Minister considers that it will promote more harmonious industrial relations between the parties, he may appoint a special officer to confer with the parties and assist them in an examination and discussion of their current relationship or the resolution of anticipated bargaining problems. Appointment  
of special  
officer

Duties of  
special  
officer

(2) A special officer appointed under subsection 1 shall confer with the parties and shall report to the Minister within thirty days of his appointment and upon the filing of his report his appointment shall terminate unless it is extended by the Minister.

Qualifi-  
cations  
of special  
officer

(3) Any person knowledgeable in industrial relations may be appointed a special officer, whether or not he is an employee of the Crown.

Disputes  
Advisory  
Committee

34b.—(1) The Minister may appoint a Disputes Advisory Committee composed of one or more representatives of employers and one or more representatives of employees.

Purpose of  
Committee

(2) At any time during the course of bargaining, either before or after the commencement of a strike or lock-out, where it appears to the Minister that the normal conciliation and mediation procedures have been exhausted, the Minister may request that the Disputes Advisory Committee be convened to confer with, advise and assist the bargaining parties.

Voluntary  
arbitration

34c.—(1) Notwithstanding any other provision of this Act, the parties may at any time following the giving of notice of desire to bargain under section 13 or 45, irrevocably agree in writing to refer all matters remaining in dispute between them to an arbitrator or a board of arbitration for final and binding determination.

Powers of  
arbitrator  
or board of  
arbitration

(2) The agreement to arbitrate shall supersede all other dispute settlement provisions of this Act, including those provisions relating to conciliation, mediation, strike and lock-out, and the provisions of subsections 6, 7, 9, 10 and 11 of section 37 apply *mutatis mutandis* to the proceedings before the arbitrator or board of arbitration and to its decision under this section.

Effect  
of  
agreement

(3) For the purposes of section 53 and section 112, an irrevocable agreement in writing referred to in subsection 1 shall have the same effect as a collective agreement.

Where  
Minister  
may require  
ratification  
vote

34d. Where, at any time after the commencement of a strike or lock-out, the Minister is of the opinion that it is in the public interest that the employees in the affected bargaining unit be given the opportunity to accept or reject the offer of the employer last received by the trade union in respect of all matters remaining in dispute between the parties, the Minister may, on such terms as he considers necessary, direct that a vote of the employees in the bargaining unit to accept or reject the offer be held forthwith.



8.—(1) Subsection 1 of section 35 of the said Act is amended by inserting after “shall” in the first line “be deemed to”. s. 35 (1),  
amended

(2) Subsection 2 of the said section 35 is amended by inserting after “shall” in the second line “be deemed to”. s. 35 (2),  
amended

(3) Subsection 3 of the said section 35 is repealed. s. 35 (3),  
repealed

9. The said Act is amended by adding thereto the following section: s. 36a,  
enacted

36a.—(1) Except in the construction industry, where a trade union that is the bargaining agent for employees in a bargaining unit so requests, there shall be included in the collective agreement between the trade union and the employer of the employees a provision that at the written request of an employee in the bargaining unit the employer shall deduct from the wages of the employee the amount of the regular union dues payable by members of the trade union and remit the amount to the trade union. Deduction  
and  
remittance  
of union  
dues

(2) In subsection 1, “regular union dues” means, Interpre-  
tation

(a) in the case of an employee who is a member of the trade union, the dues uniformly and regularly paid by a member of the trade union in accordance with the constitution and by-laws of the trade union; and

(b) in the case of an employee who is not a member of the trade union, the dues referred to in clause a, excluding any amount in respect of pension, superannuation, sickness insurance or any other benefit available only to members of the trade union.

10. Section 37 of the said Act is amended by adding thereto the following subsection: s. 37,  
amended

(5a) Except where a collective agreement states that this subsection does not apply, an arbitrator or arbitration board may extend the time for the taking of any step in the grievance procedure under a collective agreement, notwithstanding the expiration of such time, where the arbitrator or arbitration board is satisfied that there are reasonable grounds for the extension and that the opposite party will not be substantially prejudiced by the extension. Extension  
of time

s. 38 (4),  
amended

- 11.** Subsection 4 of section 38 of the said Act is amended by striking out “65” in the sixth line and inserting in lieu thereof “55”.

s. 40 (b),  
amended

- 12.** Clause *b* of section 40 of the said Act is amended by inserting after “ancestry” in the second line “age, sex”.

s. 44 (2),  
re-enacted

- 13.** Subsection 2 of section 44 of the said Act is repealed and the following substituted therefor:

Extension  
of term of  
collective  
agreement

(2) Notwithstanding subsection 1, the parties may, in a collective agreement or otherwise and before or after the collective agreement has ceased to operate, agree to continue the operation of the collective agreement or any of its provisions for a period of less than one year while they are bargaining for its renewal with or without modifications or for a new agreement, but such continued operation does not bar an application for certification or for a declaration that the trade union no longer represents the employees in the bargaining unit and the continuation of the collective agreement may be terminated by either party upon thirty days notice to the other party.

s. 49 (3),  
amended

- 14.** Subsection 3 of section 49 of the said Act is amended by striking out “50” in the third line and in the seventh line and inserting in lieu thereof in each instance “45”.

s. 55 (3),  
re-enacted

- 15.—(1)** Subsection 3 of section 55 of the said Act is repealed and the following substituted therefor:

Idem

(3) Where an employer on behalf of whose employees a trade union or council of trade unions, as the case may be, has been certified as bargaining agent or has given or is entitled to give notice under section 13 or 45, sells his business, the trade union, or council of trade unions continues, until the Board otherwise declares, to be the bargaining agent for the employees of the person to whom the business was sold in the like bargaining unit in that business, and the trade union or council of trade unions is entitled to give to the person to whom the business was sold a written notice of its desire to bargain with a view to making a collective agreement or the renewal, with or without modifications, of the agreement then in operation and such notice has the same effect as a notice under section 13 or 45, as the case requires.

s. 55,  
amended

- (2) The said section 55 is amended by adding thereto the following subsection:

(13) Where, on an application under this section, a trade union alleges that the sale of a business has occurred, the respondents to the application shall adduce at the hearing all facts within their knowledge that are material to the allegation.

Duty of respondents

16. The said Act is further amended by adding thereto the following section:

s. 60a,  
enacted

60a. Where, pursuant to a collective agreement, a trade union is engaged in the selection, referral, assignment, designation or scheduling of persons to employment, it shall not act in a manner that is arbitrary, discriminatory or in bad faith.

Duty of fair referral, etc., by trade unions

17. Subsection 2 of section 63 of the said Act is repealed and the following substituted therefor:

s. 63 (2),  
re-enacted

(2) Where no collective agreement is in operation, no employee shall strike and no employer shall lock out an employee until the Minister has appointed a conciliation officer or a mediator under this Act and,

No agreement

(a) seven days have elapsed after the day the Minister has released or is deemed pursuant to subsection 3 of section 102 to have released to the parties the report of a conciliation board or mediator; or

(b) fourteen days have elapsed after the day the Minister has released or is deemed pursuant to subsection 3 of section 102 to have released to the parties a notice that he does not consider it advisable to appoint a conciliation board.

18. Subsection 2 of section 70 of the said Act is repealed and the following substituted therefor:

s. 70 (2),  
re-enacted

(2) Where a trade union has applied for certification and notice thereof from the Board has been received by the employer, the employer shall not, except with the consent of the trade union, alter the rates of wages or any other term or condition of employment or any right, privilege or duty, of the employer or the employees until,

Idem

(a) the trade union has given notice under section 13, in which case subsection 1 applies; or

- (b) the application for certification by the trade union is dismissed or terminated by the Board, or withdrawn by the trade union.

s. 76,  
amended

- 19.** Section 76 of the said Act is amended by adding thereto the following subsection:

Complaint  
that  
financial  
statement  
inadequate

- (2) Where a member of a trade union complains that an audited financial statement is inadequate, the Board may inquire into the complaint and the Board may order the trade union to prepare another audited financial statement in a form and containing such particulars as the Board considers appropriate and the Board may further order that the audited financial statement, as rectified, be certified by a person licensed under *The Public Accountancy Act* or a firm whose partners are licensed under that Act.

R.S.O. 1970,  
c. 373

s. 76a,  
enacted

- 20.** The said Act is further amended by adding thereto the following section:

Interpre-  
tation

- 76a.—(1) In this section, “administrator” means any trade union, trustee or person responsible for the control, management or disposition of moneys received or contributed to a vacation pay fund or a welfare benefit or pension plan or fund for the members of a trade union or their survivors or beneficiaries.

Annual filing  
of statement

- (2) Every administrator shall file annually with the Minister not later than the 1st day of June in each year or at such other time or times as the Minister may direct, a copy of the audited financial statement certified by a person licensed under *The Public Accountancy Act* or a firm whose partners are licensed under that Act of a vacation pay fund, or a welfare benefit or pension plan or fund setting out its financial condition for the preceding fiscal year and disclosing,

- (a) a description of the coverage provided by the fund or plan;
- (b) the amount contributed by each employer;
- (c) the amounts contributed by the members and the trade union, if any;

- (d) a statement of the assets, specifying the total amount of each type of asset;
- (e) a statement of liabilities, receipts and disbursements;
- (f) a statement of salaries, fees and commissions charged to the fund or plan, to whom paid, in what amount and for what purposes; and
- (g) such further information as the Minister may require.

(3) The administrator, upon the request in writing of any member of the trade union whose employer has made payments or contributions into the fund or plan, shall furnish to the member without charge a copy of the audited financial statement required to be filed by subsection 2.

Furnishing of copy to member of trade union

(4) Where an administrator has failed to comply with subsection 2 or 3, upon a certificate of failure so to comply signed by the Minister or upon complaint by the member, the Board may direct the administrator to comply within such time as the Board may determine.

Where Board may direct compliance

**21.**—(1) Subsections 1, 2, 3 and 4 of section 79 of the said Act are repealed and the following substituted therefor:

s. 79 (1-4), re-enacted

(1) The Board may authorize a labour relations officer to inquire into any complaint alleging a contravention of this Act.

Inquiry by labour relations officer

(2) The labour relations officer shall forthwith inquire into the complaint and endeavour to effect a settlement of the matter complained of.

Duties

(3) The labour relations officer shall report the results of his inquiry and endeavours to the Board.

Report

(4) Where a labour relations officer is unable to effect a settlement of the matter complained of or where the Board in its discretion considers it advisable to dispense with an inquiry by a labour relations officer, the Board may inquire into the complaint of a contravention of this Act and where the Board is satisfied that an employer, employers' organization, trade union, council of trade unions, person or employee has acted contrary to this Act it shall determine what, if anything, the employer, employers' organization, trade union, council of trade unions, person or employee shall do or refrain from doing with respect thereto and such

Remedy for discrimination



determination, without limiting the generality of the foregoing may include, notwithstanding the provisions of any collective agreement, any one or more of,

- (a) an order directing the employer, employers' organization, trade union, council of trade unions, employee or other person to cease doing the act or acts complained of;
- (b) an order directing the employer, employers' organization, trade union, council of trade unions, employee or other person to rectify the act or acts complained of; or
- (c) an order to reinstate in employment or hire the person or employee concerned, with or without compensation, or to compensate in lieu of hiring or reinstatement for loss of earnings or other employment benefits in an amount that may be assessed by the Board against the employer, employers' organization, trade union, council of trade unions, employee or other person jointly or severally.

Burden of  
proof

(4a) On an inquiry by the Board into a complaint under subsection 4 that a person has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act as to his employment, opportunity for employment or conditions of employment, the burden of proof that any employer or employers' organization did not act contrary to this Act lies upon the employer or employers' organization.

s. 79 (6),  
amended

- (2) Subsection 6 of the said section 79 is amended by striking out "field" in the second line and inserting in lieu thereof "labour relations" and by striking out "clause *a*, *b* or *c* of subsection 1, as the case may be" in the eleventh and twelfth lines and inserting in lieu thereof "subsection 1".

ss. 82, 83,  
re-enacted

- 22.** Sections 82 and 83 of the said Act are repealed and the following substituted therefor:

Declaration  
and direction  
by Board  
in respect  
of unlawful  
strike

82. Where, on the complaint of a trade union, council of trade unions, employer or employers' organization, the Board is satisfied that a trade union or council of trade unions called or authorized or threatened to call or authorize an unlawful strike or that an officer, official or agent of a trade union or council of trade unions counselled or procured or supported or encouraged an unlawful strike or threatened to engage in an unlawful strike or that employees engaged in or threatened to engage in an unlawful strike, the Board may so declare and, in addition, in its discretion,



it may direct what action if any a person, employee, employer, employers' organization, trade union or council of trade unions and their officers, officials or agents shall do or refrain from doing with respect to the unlawful strike or the threat of an unlawful strike.

83. Where, on the complaint of a trade union, council of trade unions, employer or employers' organization, the Board is satisfied that an employer or employers organization called or authorized or threatened to call or authorize an unlawful lock-out or locked out or threatened to lock out employees or that an officer, official or agent of an employer or employers' organization counselled or procured or supported or encouraged an unlawful lock-out or threatened an unlawful lock-out, the Board may so declare and, in addition, in its discretion, it may direct what action if any a person, employee, employer, employers' organization, trade union or council of trade unions and their officers, officials or agents shall do or refrain from doing with respect to the unlawful lock-out or the threat of an unlawful lock-out.

Declaration  
and direction  
by Board  
in respect  
of unlawful  
lock-out

83a. The Board shall file in the office of the Registrar of the Supreme Court a copy of a direction made under section 82 or 83, exclusive of the reasons therefor, whereupon the direction shall be entered in the same way as a judgment or order of that court and is enforceable as such.

Enforcement  
of direction  
by Supreme  
Court

**23.** Section 89 of the said Act is amended by inserting after "section" in the fifth line "82, 83 or".

s. 89,  
amended

**24.** Section 91 of the said Act is amended by adding thereto the following subsection:

s. 91,  
amended

(11a) Notwithstanding subsections 9, 10 and 11, and where in his opinion it is advisable to do so, the chairman, or in the case of his absence or inability to act the alternate chairman, may sit alone to hear and determine or may authorize a vice-chairman to sit alone to hear and determine any application, request, complaint, matter or thing in respect of section 60 or 60a or section 82, 83 or 123, and to exercise all of the jurisdiction and powers of the Board when so sitting.

When  
chairman  
or vice-  
chairman  
may sit  
alone

**25.** Section 98 of the said Act is repealed and the following substituted therefor:

s. 98,  
re-enacted

98. Except with the consent of the Board, no member of the Board, nor its registrar, nor any of its other officers, nor any of its clerks or servants shall be required to give testimony in any civil suit or in any proceeding before the

Testimony  
in civil  
suits,  
etc.

Board or in any proceeding before any other tribunal respecting information obtained in the discharge of their duties or while acting within the scope of their employment under this Act.

s. 100 (6),  
re-enacted

- 26.** Subsection 6 of section 100 of the said Act is repealed and the following substituted therefor:

Secrecy of  
information  
given labour  
relations  
officers

(6) No information or material furnished to or received by a labour relations officer under this Act and no report of a labour relations officer shall be disclosed except to the Board or as authorized by the Board, and no member of the Board and no labour relations officer is a competent or compellable witness in proceedings before a court, the Board or other tribunal respecting any such information, material or report.

s. 102 (4),  
amended

- 27.** Subsection 4 of section 102 of the said Act is amended by inserting after "section" in the fourth line "82, 83 or".

s. 105 (d),  
re-enacted

- 28.—**(1) Clause *d* of section 105 of the said Act is repealed and the following substituted therefor:

(d) prescribing amounts for the expense of proceedings under section 112*a* and providing for the adjustment of such amounts in exceptional circumstances.

s. 105 (e),  
amended

(2) Clause *e* of the said section 105 is amended by inserting after "81" in the third line "83*a*".

s. 106 (e),  
amended

- 29.** Clause *e* of section 106 of the said Act is amended by striking out "sewers, tunnels" in the fourth line and inserting in lieu thereof "sewers".

s. 112*a*,  
enacted

- 30.** The said Act is further amended by adding thereto the following section:

Referral of  
grievance  
to Board

112*a*.—(1) Notwithstanding the grievance and arbitration provisions in a collective agreement or deemed to be included in a collective agreement under section 37, either party to a collective agreement between an employer or employers' organization and a trade union or council of trade unions may refer a grievance concerning the interpretation, application, administration or alleged violation of the agreement, including any question as to whether a matter is arbitrable, to the Board for final and binding determination.

Hearing

(2) A referral under subsection 1 may be made in writing in the prescribed form by the party at any time after delivery of the written grievance to the other party, and

the Board shall appoint a date for and hold a hearing within fourteen days after receipt of the referral and may appoint a labour relations officer to confer with the parties and endeavour to effect a settlement before the hearing.

(3) Upon a referral under subsection 1, the Board has exclusive jurisdiction to hear and determine the difference or allegation raised in the grievance referred to it, including any question as to whether the matter is arbitrable, and the provisions of subsections 5a, 7, 8, 9, 10 and 11 of section 37 apply *mutatis mutandis* to the Board and to the enforcement of the decision of the Board. <sup>Jurisdiction of Board</sup>

(4) The expense of proceedings under this section, in the amount fixed by the regulations, shall be jointly paid by the parties to the Board for payment into the Consolidated Revenue Fund. <sup>Expense</sup>

**31.** Subsection 5 of section 115 of the said Act is amended by inserting after "ancestry" in the fifth line "age, sex". <sup>s. 115 (5), amended</sup>

**32.** Subsection 3 of section 123 of the said Act is amended by adding at the end thereof "and is enforceable as such". <sup>s. 123 (3), amended</sup>

**33.—**(1) This Act, except subsection 1 of section 1, subsection 4 of section 3 and sections 6, 12 and 31, comes into force on the day it receives Royal Assent. <sup>Commencement</sup>

(2) Subsection 1 of section 1, subsection 4 of section 3 and sections 6, 12 and 31 come into force on a day to be named by proclamation of the Lieutenant Governor. <sup>Idem</sup>

**34.** This Act may be cited as *The Labour Relations Amendment Act, 1975*. <sup>Short title</sup>

An Act to amend  
The Labour Relations Act

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*1st Reading*

June 13th, 1975

*2nd Reading*

July 2nd, 1975

*3rd Reading*

July 18th, 1975

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THE HON. J. P. MACBETH  
Minister of Labour

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